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PhD Thesis

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Structured Agencies of Paramilitaries in the Kurdish-Turkish Conflict

The JİTEM Case

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Abstract

The ongoing war between the Turkish state and the Kurdish guerrilla organization PKK has transformed Turkey's mostly Kurdish-populated southeastern region into a permanent conflict zone. This condition was consolidated with the declaration of a state of emergency (OHAL: *Olağanüstü Hal*) rule implemented in the region between 1987 and 2002. This thesis explores the involvement of the pro-state paramilitary organization JİTEM (*Jandarma İstihbarat ve Terörle Mücadele*, Gendarmerie Intelligence and Counter-Terrorism Organization) in the creation of this conflict zone during the tumultuous 1990s.

The main objective of this thesis is to rethink structure/agency relations in the context of the emergency region and JİTEM activities. For this purpose, the thesis operates with an understanding of *structure* as the historical and legal continuity in the relations of the state with paramilitary groups, whereas *agency* is related to all the motivational processes and strategies of paramilitary actors, including how they articulate and justify their participation in violence. While the OHAL rule in the Southeast provided paramilitaries with an extra-legal structure and additional powers to carry out state-sponsored crimes, the perpetrators were generally treated officially as "unknown." The main motivation behind this thesis is thus to reveal the agencies of the "unknown actors" through their own words (published memoirs, interviews, confessions).

Resume

Den verserende krig mellem den tyrkiske stat og den kurdiske guerillaorganisation PKK har forandret den overvejende kurdisk-befolkede region i det sydøstlige Tyrkiet til en permanent konfliktzone. Denne tilstand blev konsolideret med implementeringen af et styre igennem undtagelsestilstand (OHAL*: Olağanüstü Hal*) mellem 1987 og 2002. Denne afhandling udforsker den pro-statslige paramilitære organisation JİTEM (*Jandarma İstihbarat ve Terörle Mücadele*, Gendarmeriets Efterretnings- og Anti-Terrororganisation) og dens rolle i konflikten i de tumultariske 1990ere.

Hovedformålet med afhandlingen er at gentænke forholdet mellem struktur og agens i kontekst af undtagelsestilstanden og JİTEM-organisationens aktiviteter. Til dette formål opererer afhandlingen med en forståelse af *struktur* som den historiske og juridiske kontinuitet i relationen mellem staten og voldelige paramilitære grupper; og *agens* som de processer og strategier, der motiverer de paramilitære aktører, herunder hvordan de formulerer og retfærdiggør deres deltagelse i voldelige handlinger. Selvom OHAL-styret i sydøst udstyrede paramilitære grupper med en udenretslig struktur og med yderligere beføjelser til at udføre statsstøttede kriminelle handlinger, så blev gerningsmændene i brede træk officielt behandlet som "ukendte". Den overordnede motivation bag denne afhandling er således at kaste lys over agensen for disse "ukendte aktører" gennem deres egne ord (udgivne erindringer, interviews, tilståelser).

To the memory of Tahir Elçi…

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Abbreviations

ADRAR	Association for the Defense of Rights of Anatolia and Rumelia (*Anadolu ve Rumeli Müdafaa-i Hukuk Cemiyeti*)
AKP	Justice and Development Party (*Adalet ve Kalkınma Partisi*)
ANAP	Motherland Party (*Anavatan Partisi*)
AP	Justice Party (*Adalet Partisi*)
BOTAŞ	Turkish Pipeline Corporation (*Boru Hatları ile Petrol Taşıma Anonim Şirketi*)
CHP	Republican People's Party (*Cumhuriyet Halk Partisi*)
COIN	Counterinsurgency
DGM	State Security Court (*Devlet Güvenlik Mahkemesi*)
DDKO	Cultural Eastern Hearths (*Devrimci Doğu Kültür Ocakları*)
DYP	True Path Party (*Doğru Yol Partisi*)
FETÖ	Terrorist Organization of Fethullah Gülen (*Fethullahçı Terör Örgütü*)
HDP	People's Democratic Party (*Halkların Demokratik Partisi*)
HEP	People's Labor Party (*Halkın Emek Partisi*)
IMRO	Internal Macedonian Revolutionary Organization
ISIL	Islamic State of Iraq and the Levants
İHD	Human Rights Association (*İnsan Hakları Derneği*)
JAK	Gendarmerie Public Security Command (*Jandarma Asayiş Kolordu Komutanlığı*)
JİGK	Gendarmerie Intelligence Group Command (*Jandarma İstihbarat Grup Komutanlığı*)
JİT	Gendarmerie Intelligence Service (*Jandarma İstihabarat Teşkilatı*)
JİTEM	Gendarmerie Intelligence and Counter-Terrorism Organization (*Jandarma İstihbarat ve Terörle Mücadele*)
JÖH	Gendarmerie Special Operation (*Jandarma Özel Harekat*)
JUSMMAT	Joint US Military Mission to Aid to Turkey (*Türkiye'ye Yardım için Ortak ABD Askeri Kurulu*)
LIC	Low-Intensity Conflict
NATO	North Atlantic Treaty Organization
MGK	National Security Council (*Milli Güvenlik Kurulu*)
MHP	Nationalist Movement Party (*Milliyetçi Hareket Partisi*)
MİT	National Intelligence Organization (*Milli İstihabrat Teşkilatı*)

MSP	National Salvation Party (*Milli Selamet Partisi*)
OHAL	State of Emergency (*Olağanüstü Hal*)
OYAK	Armed Forces Mutual Trust and Pension Fund (*Ordu Yardımlaşma Kurumu*)
ÖHD	Special Warfare Department (*Özel Harp Dairesi*)
ÖKK	Special Forces Command (*Özel Kuvvetler Komutanlığı*)
PGM	Pro-Government Militia
PKK	Kurdistan Workers' Party (*Partiya Karkerên Kurdistanê*)
PÖH	Police Special Operations (*Polis Özel Harekat*)
RTÜK	Radio and Television Supreme Council (*Radyo ve Televizyon Yüksek Kurulu*)
SEGBİS	Audio-Visual Communication System (*Ses ve Görüntülü Bilişim Sistemi*)
SHP	Social Democratic Populist Party (*Sosyaldemokrat Halkçı Parti*)
STK	Mobilization Research Council (*Seferberlik Tetkik Kurulu*)
SVG	Security Village Guards of Turkey (*Türkiye Güvenlik Köy Koruculari*)
TBMM	Grand National Assembly of Turkey (*Türkiye Büyük Millet Meclisi*)
TCK	Turkish Penal Code (*Türk Ceza Kanunu*)
TM	Special Organization (*Teşkilat-ı Mahsusa*)
TMK	Law on Fight Against Terrorism (*Terörle Mücadele Kanunu*)
TMT	Turkish Resistance Organization (*Türk Mukavemet Teşkilatı*)
TSK	Turkish Armed Forces (*Türk Silahlı Kuvvetleri*)
TVG	Temporary Village Guard
VVG	Voluntary Village Guard
YÖK	Higher Education Council (*Yükselöğretim Kurulu*)
YPG	People's Protection Units (*Yekîneyên Parastina Gel*)
YPJ	Women's Protection Units (*Yekîneyên Parastina Jin*)

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1. Introduction

1.1. Commencement

Beginning in November 2015, various social media accounts within Turkish media circulated images from destroyed districts in the country's Southeast. These images included nationalist, Islamist, and sexist slogans and phrases spray-painted on the walls of buildings throughout the devastated Kurdish provinces of southeastern Turkey. The violence there had been part of the recent reignition of violence between the Turkish Armed Forces (TSK: *Türk Silahlı Kuvvetleri*) and the armed Kurdish group known as the Kurdistan Workers' Party (PKK: *Partiya Karkerên Kurdistanê*) (White, 2000; Romano, 2006), occurring with the collapse of the short-lived peace negotiations between these two actors in 2015.[1]

The majority of the nationalist, Islamist, and sexist graffiti emphasized the state's victorious presence in northern Kurdistan.[2] Some of the messages sprayed across the walls of abandoned Kurdish homes included "*Türksen övün, değilsen itaat et* (Praise if you are a Turk, obey if you are not)," "*Kızlar geldik, ininize girdik* (Girls, we came and entered your holes)," and "*Allah tektir, ordusu Türktür* (God is one and His army is Turkish)" (Diken, 2015; Eray, 2016). In many of the shared photographs, people with face masks dressed in military uniforms strike poses as they hold cans of spray paint and/or heavy guns. They seem to have signed their spray-painted messages

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[1] For a chronology of the peace process, see Aktan (2015).

[2] The region where mostly Kurds live, both historically and today, is concentrated across the border regions of four countries: Turkey (containing northern Kurdistan), Iraq (containing southern Kurdistan), Iran (containing eastern Kurdistan), and Syria (containing western Kurdistan). Among them, Turkey is the country with the largest Kurdish population at approximately 20 million (Fondation Institut Kurde de Paris, 2017). While there are various provinces, autonomous regions and local administrations known by the name Kurdistan in Iraq, Iran and Syria, the country in which the word "Kurdistan" is the most controversial is Turkey. Geographically, the mostly Kurdish-inhabited region of Turkey is officially called "Southeast Anatolia" (*Güneydoğu Anadolu Bölgesi*). In this thesis, I use "northern Kurdistan" interchangeably with "Southeast Turkey" and "Turkish Kurdistan" to indicate that Kurds live across a wider geography that is linguistically and historically interconnected. At present, millions of Turkey's Kurds live in other areas of Turkey, especially in the major cities of İstanbul, Ankara, İzmir, and Bursa, as well as in Europe as emigrants or political refugees.

using *JÖH*, *PÖH*, and *Esedullah Timi* ("Esedullah Team") to assert their authorship of the graffiti on the walls. These names prove to be important, as they help us understand who actually partook in this wave of violence in 2015.

Thanks to these photos, we know that Turkey employed its Gendarmerie Special Operations (JÖH: *Jandarma Özel Harekat*) and Police Special Operations (PÖH: *Polis Özel Harekat*) to conduct these military operations in northern Kurdistan in 2015. These teams trained in special warfare tactics, specializing in the fields of counter-terrorism and counterinsurgency. While these specially trained units of the state are known, no one, however, had previously heard of the "Esedullah Team."

The pictures have become notorious in Turkish opposition circles and helped launch an inquiry into the *deeper* workings of the Turkish state. The People's Democratic Party (HDP: *Halkların Demokratik Partisi*) and the Republican People's Party (CHP: *Cumhuriyet Halk Partisi*) as opposition parties and the Human Rights Association (İHD: *İnsan Hakları Derneği*), which reported on human rights violations of the military operations in 2015 and 2016, highlighted that the Esedullah Team carried out brutal acts of violence in the region with great arbitrariness and impunity (HDP Genel Merkezi, 2015; HRA, 2015; HDP Sur Çalışma Grubu, 2016; Tanrıkulu, 2015; HDP Cizre Çalışma Ekibi, 2016). However, no official institution could confirm the Esedullah Team's existence or activities beyond the local testimonies and documented graffiti.

The state's approach to ignoring its collaboration with shadowy groups was not new, neither in Turkish history more generally nor specifically in northern Kurdistan. The joint military actions of the PÖH, JÖH, and Esedullah Team were, in fact, evoking the notorious 1990s, a period of state violence deeply engrained in the memory of Kurdish society. Of particular significance is the memory of two infamous paramilitary forces, the religious Kurdish *Hizbullah* and the statist Gendarmerie Intelligence and Counter-Terrorism Organization (JİTEM: *Jandarma İstihbarat ve Terörle Mücadele*). They seem to have come together as the radical Islamist and the fascist wings of the Esedullah Team, respectively.

As the continuity of paramilitary violence after 2015 triggered public debate about whether Turkey was "back to the 1990s," a particular sample of graffiti fueled this debate further with its clear reference to one of the iconic figures of that decade. Photographed in the Sur district of Diyarbakır, this graffiti read: "*Yeşil burada* (*Yeşil* is here)" (Diken, 2015). Mahmut Yıldırım, also known as

Yeşil (Green), was the most famous of JİTEM's hitmen and a symbol of the arbitrariness and impunity of the cruel 1990s. Although Yeşil was accused of many atrocities and murders in the 1990s, there is, at the time of writing this thesis, still no information about his whereabouts. This reference to Yeşil on the walls of Diyarbakir thus implied that paramilitary groups were again active during the 2015 military actions in northern Kurdistan.

At the same time, a deepening debate has evolved in academia about the *paramilitarization of the state*, a notion championed by historian and political scientist Hamit Bozarslan (Aktan, 2019; Ayşegül Doğan, 2020) to not only describe the transformation of violence in northern Kurdistan since 2015 but also to more generally characterize the state's paramilitary tradition dating back to the late Ottoman period. Hence, what Bozarslan meant by the term *paramilitarization of the state* was the consolidation of paramilitary relations within the state and without any concern for legal consequences. Indeed, while the paramilitary violence of the 1990s has received more attention (while being constantly denied by state authorities), the 2015 images of uniformed actors were of a more explicit and overt nature, displaying much more assertive paramilitary agents brazenly posing in front of graffiti over the signatures of the PÖH, JÖH, and Esedullah Team.

1.2. The Aim of the Thesis and Research Questions

To explore the significance of such paramilitaries in the ongoing conflict, this thesis investigates the relationship between state and violence with a specific focus on the 1990s and JİTEM. I will outline the importance of the 1990s and, above all, JİTEM as a phenomenon later in this chapter; here, it suffices to state that while the 1990s were not anomalous in the Turkish state's relationship with paramilitaries, the period stands out as a period of excessive violence. I will detail in Chapter 2 how the history of this relationship can be traced back to the late Ottoman period and seen throughout Turkey's Republican history, continuing across shifting governments. Hence, this thesis analyzes the particular emergence of paramilitary violence in the 1990s as a part of a broader historical continuity.

The illegal relationship between the state and shadowy groups has often been associated in academia with the concept of the "deep state" (*derin devlet*)[3], and paramilitary violence, in particular, has often been thought of as depending on such a deep state (Ünver, 2009; Gingeras, 2014; Söyler, 2015). In both the general literature and in Turkish academia, the state proves to be the greatest obstacle to conducting academic research on paramilitary groups (Sluka, 1999; Campbell & Brenner, 2000; Üngör, 2020; A. Işık, 2020). While it is possible to carry out research on semi-official paramilitary groups with their visible ties to the state, it is much more difficult to conduct research on groups that have an informal relationship with the state. In the latter situation, states tend to deny such clandestine relationships with informal groups (Carey et al., 2015). In such a case, rather than academic research, investigative journalism and the reports of relevant non-governmental organizations may yield at least some of the information necessary to elucidate the informal relationship between states and violent groups (Sluka, 1999; Grandin, 2000; Campbell & Brenner, 2000; L. Gill, 2004; Robben, 2007; Grandin & Joseph, 2010; Gates & Roy, 2014). This situation is also apparent in the Turkish case.

The impact of restrictions on academic research is clear in the existing literature. Studies on paramilitary groups in Turkey have mostly focused on village guards due to their semi-official status and easier accessibility (Balta Paker & Akça, 2013; Özar et al., 2013; Gurcan, 2015). At the same time, research on informal groups such as JİTEM and Hizbullah has been spearheaded for many years mostly by investigative journalists (Bulut & Faraç, 1999; Çakır, 2001; Ağaşe, 2003; Şahan & Balık, 2004; Kalkan, 2006; Ağaşe, 2009; Kılıç, 2009; N. Çiçek, 2009a; Duvaklı, 2010), apart from limited academic research on Hizbullah (Kurt, 2017, 2020). This situation had just started to change when I began writing this thesis. Specifically, two very relevant PhD theses were completed and defended in 2019 and 2020, respectively.

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[3] *Derin Devlet* simply means "state within a state." The concept is generally associated with Turkey in the literature, like its global counterparts of the "military line" (*vojna linija*) in Serbia, the "regime" (*al-nizaam*) in Syria, "para-politics" (*parapolitica*) in Colombia, or "the process" (*el proceso*) in Argentina (Üngör, 2020, p. 136), and it refers to the shadowy nexus between state officials and organized crime. One of the conceptualizers of the term, historian Ryan Gingeras defines the deep state as a "catchphrase" that "encapsulate[s] the long-standing relationship between the country's civilian government, its security apparatus, and unlawful actors" (Gingeras, 2014, p. 19).

In her thesis entitled "(Dis)avowal of State Violence: Public Confessions of Perpetrators of State Violence against Kurds in Turkey" (Yıldız, 2019a), defended at Cambridge University, Yeşim Yaprak Yıldız analyzes discourses on state violence against Kurds from the perpetrators' point of view. Of particular focus are discussions around confession, truth, and responsibility. Yıldız primarily focuses on the confessional performances of perpetrators of state violence against Kurds in the broader context of the public accounts of former state, gendarmerie, and police officials, including the statements of ex-JİTEM and PÖH members.

The other relevant thesis is that of Ayhan Işık, entitled "The Emergence, Transformation and Functions of Paramilitary Groups in Northern Kurdistan (Eastern Turkey) in the 1990s" (A. Işık, 2020) and defended at Utrecht University. Işık sheds light on the paramilitary history of the Turkish state dating back to the Ottoman era with a specific focus on the emergence, transformation, functions, and disappearance of the four paramilitary organizations most active in the 1990s: the Police Special Operations Department, Village Guards, Hizbullah, and JİTEM. With this historical perspective, Işık, for the first time in academia, reveals the historical continuity behind the state's paramilitary violence.

The present thesis offers the first academic research focusing solely on JİTEM. As JİTEM is not yet a fully exposed paramilitary organization, the greatest obstacle to the research behind this study was the problem of obtaining primary sources about it. Nevertheless, two crucial events in recent Turkish history fueled the public discussion about JİTEM and brought about both official and popular accounts of the organization.

The first incident was a car/truck collision in the Susurluk district of western Turkey on 3 November 1996. This accident would later be dubbed the "Susurluk Scandal" because of the identities of the people inside the crashed car: Hüseyin Kocadağ, deputy chief of the İstanbul Police Department; Sedat Bucak, a member of parliament and leader of the pro-state Kurdish Bucak tribe and its village guards; Abdullah Çatlı, an ultra-nationalist contract killer and mob boss wanted by Interpol; and Gonca Us, a former beauty queen and Çatlı's girlfriend (Massicard, 2010, pp. 43–44; Üngör, 2020, p. 64; A. Işık, 2020, p. 1). Among them, only Sedat Bucak survived the crash. While this scandal itself exposed the connection between the state and organized crime and fueled the discussion about the deep state, the official investigations conducted to shed light on the scandal also contributed to the debate on JİTEM.

Accordingly, two separate state reports were published in 1997 and 1998, respectively. The first was published by the Parliamentary Commission for Inquiry into the Susurluk Incident, which was formed on 12 November 1996 because of the public outcry questioning the relationships among the Susurluk crash victims (Türkiye Büyük Millet Meclisi, 1997). Based on the startling information on the deep state's functioning in Turkey in this report, the prime minister of the time, Mesut Yılmaz, from the right-of-center Motherland Party (ANAP: *Anavatan Partisi*), authorized the Prime Ministry Inspection Board to prepare a more detailed report on the scandal on 13 August 1997 (Savaş, 1998). Since this report was prepared under the leadership of inspector Kutlu Savaş, it is also known to the public as Kutlu Savaş's Susurluk Report. This report was never officially announced to the public, but it was unofficially submitted to newspapers and television channels with twelve-page censorship. As I will discuss in Chapter 3 and beyond, these resulting reports presented the first detailed official debate about JİTEM.

The second event was the investigation, launched in 2007, of Ergenekon, defined as a clandestine, secularist, ultra-nationalist organization aimed at toppling the then-neoconservative Justice and Development Party (AKP: *Adalet ve Kalkınma Partisi*) government (Söyler, 2015, p. 2). This investigation also led to other inquiries and litigation processes on Operation Sledgehammer (*Balyoz Operasyonu*) and the coup of 28 February 1997. As a result, hundreds of high-profile individuals were tried and sentenced in court cases in 2013 (Ertür, 2016), although all suspects and convicts were acquitted of being members of the Ergenekon organization in 2019 (Sputnik, 2019). Among them were top-brass military officials, journalists, politicians, former university rectors, businessmen, lawyers, and mafia leaders (Ünver, 2009, p. 10; Söyler, 2015, p. 2; Ertür, 2016, pp. 177–178). As the Ergenekon case drew ties to members of the country's military and security forces, including JİTEM, it also accelerated not only the publication of much-debated memoirs and interviews about JİTEM but also the proceedings of the so-called JİTEM trials.

The official documents and personal testimonies that emerged as a result of these two events enabled me to carry out significant research on JİTEM. This is not to say, however, that JİTEM entered the state's agenda with the Susurluk Scandal. "JİTEM" was first mentioned in a state report in 1995. As I will discuss in Chapter 3, 1993 was the year with the highest number of unsolved political murders in the history of the country. The dramatic increase in murders also affected the

parliamentary agenda, and the Grand National Assembly of Turkey (TBMM: *Türkiye Büyük Millet Meclisi*) authorized a Commission for Inquiry into Unsolved Political Murders.

This parliamentary commission, which continued its work for two years, presented its resulting report on 12 October 1995 (Türkiye Büyük Millet Meclisi, 1995). This report referred to JİTEM as one of the perpetrators of the unsolved murders, mostly committed in the Southeast, but it also stated that the Commission did not fully understand the organization's legal status and activities (Türkiye Büyük Millet Meclisi, 1995, p. 57). A similar statement was also included in the Parliamentary Susurluk Report. Accordingly, both reports generated considerable information about the network and activities of JİTEM, but they could not provide official information about the existence of the organization. As the commission members reported to the weekly pro-state news magazine *Yeni Aktüel* in 2008, such ambiguity resulted from military officials' avoidance or refusal to provide the commissions with the necessary information (Korkmaz, 2008a, 2008b).

The contradiction between the state's legislative, executive, and military bodies in the deep state debate, and regarding JİTEM in particular, shows that the Turkish state is not a monolith. Indeed, what we know about JİTEM in the official sense is due to the contradiction among state institutions even though all legislative, executive, judicial, and military bodies of the state eventually united behind a discourse of plausible deniability about JİTEM's existence and/or activities, as I will show in the following chapters.

In this regard, I find the question posed by Philip Abrams to be crucial: How is "the system in question…rendered cohesive despite its contradictions[?]" (Abrams, 1988, p. 72). According to Abrams's definition, "the state is the unified symbol of an actual disunity" (Abrams, 1988, p. 79), and in such a situation, researchers of the state have to admit the difficulty of studying the state since it might itself be "the source of the state's ability to defy our efforts to unmask it" (Abrams, 1988, p. 63). Likewise, accepting that the Turkish state is similarly functional to prevent the adequate study of the state, in this thesis, I place my analysis within the discussion of structure and agency within political science, history, and sociology.

For the purpose of this thesis, *structure* is understood as the state's continuous historical and legal construction in the maintenance of semi-official or informal paramilitary relations with various groups. Conversely, *agency* is related to the motivational processes and personal strategies behind

paramilitary actors' articulation and justification of their participation in paramilitary violence. In investigating the relationship between structural and motivational dynamics of paramilitary violence, I propose an analytical prism of "contractual violence." With the "contractual violence" notion, I assert that there is a kind of impunity-granting contract – sometimes tacit, sometimes overtly observable in legal texts – between the Turkish state and society "in terms of approving, supporting, and even participating in state violence" against those deemed the foes of the state (Has, 2017, p. 6). In this sense, contractual violence could be understood as a refined version of the "Turkishness Contract" proposed by political scientist Barış Ünlü (Ünlü, 2016, 2018).

> By Turkishness, I mean a patterned but mostly unrecognized relationship between Turkish individuals' ethnic position and their ways of seeing, hearing, feeling and knowing – as well as not seeing, not hearing, not feeling and not knowing. These ways and states of Turkishness have been shaped by a set of written/unwritten and spoken/ unspoken agreements (the Turkishness Contract) among the Muslims of Anatolia (Ünlü, 2016, p. 397).

Ünlü also adds, "[t]he contract was secured, first and foremost, by the state's legal, coercive, economic and ideological means" (Ünlü, 2016, p. 400). Based on this broader sociological analysis, I employ contractual violence to show the Turkishness Contract's relationship with paramilitary violence and its perpetrators through scrutinizing impunity-granting legal and ideological assurance processes.

Therefore, this thesis aims to examine both the historical and legal construction of the contractual violence that also facilitated the creation of JİTEM in the 1990s and the personal accounts of JİTEM-related actors articulating their benefit from the contractual violence. In doing so, the thesis draws on and contributes to the existing, scant research, merging the agency perspective provided by Yıldız's perpetrator-centered study with the historical continuity perspective of Işık while focusing on the case of JİTEM. However, to elaborate further, I also present an analysis of the legal structure that facilitates the emergence and actions of paramilitary groups in Turkey.

To guide this research, I address four main questions within the framework of the structure and agency debate in this thesis:

1) What are the historical and legal legacies behind the Turkish state's production of semi-official or informal paramilitary relationships with various groups?
2) How did these historical and legal legacies affect and facilitate the formation of JİTEM?
3) How did people get involved in JİTEM, and how are activities recalled retrospectively by ex-JİTEM members according to their various motivations?
4) To what extent did personal accounts affect the legal proceedings on JİTEM? Did they simply remain in books, official reports, or published interviews, or did they actively contribute to the acceleration of the legal proceedings vis-a-vis the state's denial strategies?

The following chapters will seek answers to these questions. However, before that, I find it helpful to explore the general relationship between states and paramilitary violence before offering some details to the particular circumstances of the 1990s and JİTEM.

1.3. State and Paramilitary Violence

In order to analyze the relationship between state and paramilitary violence, one must first understand the nexus between state and violence. Many scholars have indeed defined the modern state itself in light of its capacity to monopolize means of violence (Weber, 1946; Tilly, 1975; Mann, 1992; J. Migdal, 2010; Skocpol, 2015). Max Weber famously provides the most conventional definition of this relation: "a state is a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory" (Weber, 1946, p. 4). This definition establishes the state's relationship with violence through two parameters: *legitimacy* and *territoriality*. The former is obtained through a social contract, restricted by territoriality, between a state and its citizens, according to which citizens delegate the state the power to protect while the state extracts the required resources from citizens to exercise this power (Tilly, 1985, p. 181). Thus, a state can exercise state-making power to the extent that it maintains its legitimacy on the basis of a war-making capacity *in* or *in the name of* a particular territory (Tilly, 1985).

The literature on states' relationships with violence often operates on a distinction between *legitimate* and *illegitimate* versions of violence. While the violence exercised by states is considered legitimate by states, any kind of violence (anti-state, revolutionary, etc.) directed against the sovereignty of states is deemed illegitimate. As this distinction finds its meaning in relation to law, Walter Benjamin theorizes a dual functionality of violence as *law-making* and *law-preserving*

(Benjamin, 1978, pp. 284–285). Whereas *law-making violence* has a state-building characteristic aimed at establishing a legal order by putting an end to the *war of all against all* (Hobbes, 1998; Benjamin, 1978, p. 284), *law-preserving violence* is the threatening violence of sovereign power to pursue the established order (Benjamin, 1978, p. 285).

Benjamin takes one further step and implies that these two distinctive characteristics are not clear-cut; rather, there are some areas within state power where these two functions of violence may meet or merge. Benjamin exemplifies this ambiguous area through an inspection of police violence, where the police become an arbitrary power rather than a mere law enforcement body since officers can easily act beyond the law for "security reasons" (Benjamin, 1978, p. 287). Benjamin's analysis is one of the first critiques of the Weberian notion of the monopoly of the legitimate use of violence by states and finds its broader reflection in the literature on state terror supported by the *national security* discourse.

While terrorism is often associated in the public arena – and once also in academia – with anti-state violence, state terror is a topic of study in its own right. With cases spanning the globe, research has shown that state-sponsored violence is in fact the deadliest threat to people, and especially ethnic and politically dissident groups, since the Second World War (WWII) (Chomsky & Herman, 1979; Herman, 1982; Nagengast, 1994; Sluka, 1999; Chomsky, 2012). The anthropologist of state terror, Jeffrey A. Sluka, defines the term as "the use of or threat of violence by the state or its agents or supporters, particularly against civilian individuals and populations, as a means of political intimidation and control (i.e., a means of repression)" (Sluka, 1999, p. 2).

In this sense, state terror fits well into the merging area of law-making and law-preserving violence, as Benjamin depicted with police violence: for security reasons, states can easily go beyond the law or, in other words, beyond their legitimate limitations, to use violence with a broad repertoire of tools, including:

> genocide and cultural genocide; mass killings of civilians by state-sponsored militias and paramilitaries; military raids on and carpet bombing of civilians; mass rape as a weapon of terror; 'ethnic cleansing'; assassinations; torture; abduction and indefinite detention; demolitions of homes and obliterations of villages and neighbourhoods;

> deliberate and politically motivated destruction of civilian infrastructure, schools, universities, hospitals, and so on and on (Poynting & Whyte, 2012, p. 2).

The above repertoire of violence shows that in cases where law-making and law-preserving interests of states are intertwined, "the distinction between 'legitimate' and 'illegitimate' force, furthermore, makes no difference to the fact," as Charles Tilly claims (Tilly, 1985, p. 171).

However, no matter where they stand on the legitimate and illegitimate scale of use of force, states are bound by a set of legal rules of the order that they are willing to maintain. For this reason, states are apt to deny their agency in the infliction of illegitimate violence, especially on civilian populations. Thus, they often resort to discourses of *national security* or *unintentional collateral damage* to efface their responsibility for excessive use of illegitimate violence (Cohen, 2001; Kalyvas, 2006). Similarly, the clandestine relationship that states establish with paramilitary violence also develops in order to evade responsibility, in effect subcontracting the state monopoly over violence to non-state groups to increase deniability for crimes due to the illegitimate use of violence.

This relationality contradicts the Weberian definition of state. While Weber's modern state definition is based on the monopoly of violence in the hands of sovereign power, paramilitary violence entails the devolution of this monopoly. In this sense, paramilitarism itself emerges as an entangled concept poised between law-making and law-preserving violence. To untangle the concept in relation to a specific case, one will need to both define paramilitarism and understand the complexity of reasons behind states' resort to paramilitary violence. This is what I will do in the following section.

1.3.1. What Is Paramilitarism?

Paramilitarism entered the global research agenda mostly with the "New Wars" discussion of the late 1990s, which sought to explain the changing nature of warfare in the post-WWII era (Mueller, 2004; Creveld, 1999; Hoffman, 2007; Kaldor, 2012). The proponents of "New Wars" scholarship support the idea that asymmetric, indirect, hybrid, and non-front-based types of war have become prevalent, particularly since the Cold War, as the distinctions between state and non-state agents and, thus, formal and informal have become significantly more blurred. According to the most

famous proponent of the "New Wars" concept, Mary Kaldor, decentralized groups such as "paramilitary units, local warlords, criminal gangs, police forces, mercenary groups and also regular armies, including breakaway units from regular armies," have appeared as a contrast to "the vertically organized hierarchical units" of *old wars* (Kaldor, 2012, pp. 9–10). As a result, however, questions arise: Do states' devolutions of violence to non-state agents translate as a withdrawal of states in the new world order? Or do all these subcontracting policies mean a new quest for states to consolidate their hegemony in an era of new warfare?

The scholar of mass violence, Uğur Ümit Üngör, makes a distinction regarding the genocide and mass violence associated with the 20th century by highlighting the difference between how paramilitarism and militias converge to the state:

> The major distinction between paramilitarism and militias is that the former contains the prefix "para," which means "beside" as well as "on behalf of" or "beyond," and suggests its dynamic and relational proximity to the state. The suffix -ism denotes wider societal and political implications, but not an ideology (Üngör, 2020, p. 8).

This thesis, too, deals with paramilitarism in its relation to the Turkish state. It treats paramilitarism, in its general sense, as "a system in which a state has relationships with irregular armed organizations that carry out violence" (Üngör, 2020, pp. 6–7). However, the existing literature, with reference to cases from across the world, shows that definitions of paramilitarism form a spectrum of variations according to the particular links between paramilitary groups and states (Carey et al., 2015; Carey & Mitchell, 2017; Aliyev, 2016; Üngör, 2020; A. Işık, 2020). Paramilitary groups can thus range from state-manipulated to state-parallel in terms of their functional relationships with states and from semi-official to informal in terms of their legal relationships with states (Aliyev, 2016; Carey & Mitchell, 2017).

Hence, paramilitary groups can be categorized as "pro-government," "pro-state," "state-supported," "state-manipulated," and "state-parallel" militias or armed groups. The prefix "pro-" defines the position of actors in the sense that they are siding with the government and/or state. The latter three – "state-supported," "state-manipulated," and "state-parallel" – appear as adjectives to define the paramilitary groups according to their functional relationships with the state.

Accordingly, on the one hand, state-supported/state-manipulated pro-government/pro-state militias may be defined as paramilitary groups that are founded and/or financially and materially supported by regimes. They are often referred to as "self-defence units, death squads and pro-regime 'enforcers'" (Aliyev, 2016, p. 4). These groups are not necessarily created due to the weakness or inability of states to maintain their monopoly of violence; rather, states deliberately franchise their monopoly on violence to these groups to avoid any national or international responsibility regarding human rights violations. As Huseyn Aliyev, a pro-government militias researcher, emphasizes, "state-manipulated groups were always deployed alongside the army and not instead of it" (Aliyev, 2016, p. 6).

On the other hand, state-parallel pro-government/pro-state militias are paramilitary groups that emerge and thrive due to states' weaknesses and the incapacity to maintain the monopoly of violence and repress ongoing internal conflicts. These groups can be referred to as "popular mobilisation forces, offensive sub-state counterinsurgents and tribal or traditional militias" (Aliyev, 2016, pp. 4–5). As they emerge from state weakness, they do not expect any material or financial aid from the ruling regime, and unlike the state-manipulated groups that emerge to carry out the "dirty work" of states, state-parallel groups seek legitimacy in social and political realms as alternatives to the regime's military force. Aliyev puts Ukraine's *Volontery*, Iraq's *al-Sha'bi*, Sudan's *Janjaweed*, Rwanda's *Interahamwe*, and Lebanon's *Hezbollah* in this category (Aliyev, 2016, p. 13).

The literature that distinguishes between informal and semi-official paramilitary groups makes an additional distinction according to whether these groups have any legal relationship with states. It is possible to locate a semi-official or informal nexus of paramilitaries with states on the opposite side of the military organizations' formal relationships with states. Alex Alvarez explains this contradiction as follows:

> First, modern military organizations tend to be rigidly organized along regimental lines while paramilitaries are usually less formally organized with a looser structure […] Second, militaries are composed of professionals whereas paramilitaries are made up of amateurs […] Third, the military also clearly and overtly acts on the authority of the state, while the connection between paramilitaries and the government tends to be much more obscured […] Fourth and last, paramilitary groups often act for personal

> gain and profit, while members of the military and police do not generally profit personally from their activities (Alvarez, 2006, pp. 5–6).

Sabine C. Carey and Neil J. Mitchell, who have conducted research on the typologies of pro-government militias (PGMs), define a semi-official PGM as a group that is "separate from the regular military and police force" but nonetheless "has a formalized and official link to the government," which "might have established the group by official decree or law, and members may receive some regular compensation" (Carey & Mitchell, 2017, p. 130). These PGMs are thus semi-official auxiliary forces to the state's official security forces, and although they are, to some extent, established according to state law, the criteria upon which they are recruited are ambiguous. Nevertheless, cases from different settings around the world reveal that such groups mostly recruit on the basis of nationalist loyalties and local knowledge of conflict areas. India's *Village Defence Committees*, Libya's *Revolutionary Committees*, Peru's *Rondas Campesinas*, and Turkey's *Village Guards* and *Special Police Teams* are examples of this category (Carey et al., 2013, p. 251; A. Işık, 2020, p. 6).

In contrast, *informal* paramilitary groups have no formal link to the state, regardless of whether "their connection to the government might be widely known within the country, or it might be denied by the government" (Carey & Mitchell, 2017, p. 130). Either way, they pursue their relationship with the state clandestinely. Apart from the fact that they are often created covertly by state officials and/or include state officials among their ranks, they also receive financial and material support from the state – and might also, in addition, pursue personal gain from criminal activities such as arms and drug trafficking, racketeering, or kidnapping. Iran's *Ansar-e Hizbullah*, Rwanda's *Interahamwe*, Syria's *Shabiha*, and Turkey's *JİTEM* are examples of this category (Carey et al., 2013, p. 251; Carey & Mitchell, 2017, p. 130; A. Işık, 2020, p. 6). While this classification includes diverse groups such as vigilantes, proxy militias, and surrogates, death squads stand at the furthest point of this continuum (Rosenbaum & Sederberg, 1976; Mason & Krane, 1989; Sluka, 1999; Campbell & Brenner, 2000; Alvarez, 2006; Mazzei, 2009; Carey & Mitchell, 2017). Bruce Campbell defines such organizations as follows:

> clandestine and usually irregular organizations, often paramilitary in nature, which carry out extrajudicial executions and other violent acts (torture, rape, arson, bombing, etc.) against clearly defined individuals or groups of people. Murder is their primary

> or even sole activity. Except in the rare case where an insurgent group forms them, death squads operate with the overt support, complicity, or acquiescence of government, or at least some parts of it. In many cases, government security forces have participated directly in the killing (Campbell, 2000, pp. 1–2).

In this context, death squad violence could be understood as *repressive* and *selective*, intended to prevent support and sympathy for dissident groups by spreading fear (Mason & Krane, 1989, p. 178; Kalyvas, 2006, p. 173). As I will explain in Chapter 3 with the formation and activities of JİTEM, this thesis categorizes JİTEM as a *state-supported informal pro-state militia* in general and a *death squad* in specific. For now, I will continue by answering the second question to better untangle the concept of paramilitarism.

1.3.2. Why Do States Resort to Paramilitary Violence?

The answers given by the literature to this question generally cluster around concepts such as "state weakness," "national defense," "plausible deniability," "coup-proofing strategies," and "historical legacy."

While it remains unclear which criteria should be used to make a distinction between "weak" and "strong" states[4], the literature discussing this distinction in terms of paramilitarism generally puts states that maintain both criteria for democracy and a monopoly on violence into the "strong state" category (Staniland, 2015; Aliyev, 2016; Ahram, 2016; Böhmelt & Clayton, 2017; Kan, 2019; Tasic, 2020). However, on the basis of a global dataset developed for the period between 1981 and 2007 by Carey, Mitchell, and Lowe, which captured 332 PGMs worldwide and showed that 64% of them (that is, 211 PGMs) had direct contact with state or military institutions (Carey et al., 2013, p. 253), the striking point that emerged was that these paramilitary groups were active around the world in both states weak and strong: from the United States and the United Kingdom to Sudan and the Philippines (Carey & Mitchell, 2014). Thus, although this perspective on paramilitarism can

[4] For approaches that emphasize the structural capacity of the state to penetrate and influence society, see Mann, 1984; Migdal, 1988. For alternative and critical approaches that emphasize conflictual or collaborative arrangements between the state and societal groups, see Ayubi, 2005; Blumi, 2010.

generally explain why weak states have a more conducive environment for the emergence of paramilitary violence, it does not adequately explain the case for strong states.

For this purpose, *national defense* and *plausible deniability* constitute two interrelated explanatory frameworks. Researchers focusing on the former concept generally argue that states resort to paramilitary violence as a result of counterinsurgency (COIN) policies. Two COIN scholars, Geraint Hughes and Christian Tripodi, define COIN "as the coordinated political and military response of a government and its external supporters to an organised campaign of subversion and paramilitary action waged against the former by an indigenous armed opposition" (Hughes & Tripodi, 2009, p. 2). Accordingly, when states face extraordinary irregular warfare, they necessarily resort to the same extraordinary tactics used by their adversaries to defeat them (Campbell & Brenner, 2000, p. 14).

At the citizen level, some individuals and groups with strong nationalist feelings may organize and/or cooperate with regular forces to preserve the state from subversion as a self-professed "'popular organization,' 'volunteer guard,' and 'concerned local citizens'" (Kan, 2019, p. 7). The phenomenon of national defense is shaped by the perception of national security. In cases where a particular perception of national security depends on a particular politically powerful socio-economic class's interests, this class might employ paramilitary groups to eliminate threats to their interests. An example of this is the United Self-Defense Forces of Colombia (AUC: *Autodefensas Unidas de Colombia*), organized against left-wing rebel groups (e.g., FARC, ELN) and enjoying the support of drug lords, cattle ranchers, local landowners, politicians, and mining and petroleum companies (Mazzei, 2009; Hristov, 2014; Civico, 2015).

Self-styled "national defense" groups can also be founded on political ideologies or may be formed and manipulated by political parties. The ultra-nationalist German SS (*Schutzstaffel*) of Hitler's Nazi Party and the Turkish Grey Wolves (*Bozkurtlar*) under Alparslan Türkeş's Nationalist Movement Party (MHP: *Milliyetçi Hareket Partisi*) are examples (McNab, 2013; Atkins, 2004, pp. 110–111). Although all the groups in this category claim to defend national interests, they are, in fact, offensive groups ready to go beyond the law. In this sense, as national security scholar Paul Rexton Kan emphasizes, "one person's self-defense group may be another person's death squad" (Kan, 2019, p. 8).

Collaborating with these PGMs is also useful for perpetrator states in order to "conceal their suppression of the opposition by, for example, using agents of violence that do not hold the regime accountable for their actions" (Böhmelt & Clayton, 2017, p. 210). Hence, this type of state/paramilitary relation has been conceptualized as *plausible deniability* (Sluka, 1999; Campbell & Brenner, 2000; Mazzei, 2009; Ahram, 2011; Jentzsch et al., 2015; Carey et al., 2015; Aliyev, 2016; Böhmelt & Clayton, 2017; Sanders, 2018; Üngör, 2020). For example, Mason and Krane (1989), who study the political economy of paramilitary formations, explain states' plausible deniability strategy with a rational choice model. According to this approach, the informal relationship between PGMs and the state increases the state's capacity for denial to avoid national and international responsibility due to state-sponsored human rights violations (Mason & Krane, 1989).

The last two explanatory approaches to understanding why states resort to paramilitary violence, *coup-proofing strategies* and *historical legacy*, are squarely focused on state formation. Primary research on *state* has mainly drawn on a Euro-centric, Weberian understanding of state formation in which the modern state rose among other rival sovereign agents (e.g., churches, feudal lords, chivalric orders, city-states) with war-making capacity by obtaining a monopoly over violence through regular armies instead of mercenaries (Tilly, 1975, 1985; McFate, 2017). However, more recent research shows that not every state in the world moves along the same historical transition path from multi-polar sovereignty structures to a state-centric modern system as that seen in Europe.

For example, working on paramilitary groups in sub-Saharan Africa, Andrew Dowdle explains the region's absence of modern states in the strict Weberian sense with the region's colonial legacy. As such, the greatest threat to the maintenance of post-independence democracy in these countries was to be found in national armies mired in colonial legacy and the ever-present possibility of military coups against elected governments. Hence, the ruling elite in sub-Saharan Africa has followed a coup-proofing strategy by strengthening affiliated paramilitary organizations against the national army (Dowdle, 2007).

Another security scholar, Ariel Ahram, works from the premise that "key features of statehood—including the monopoly over force—are empirically variant, not ontologically given" (Ahram, 2011, p. 2). While Ahram accepts that low-capacity autocracies or weak states are more prone to

producing paramilitary activities, he identifies a third functional dynamic apart from the *strong state* and *weak state* debate: "Once a state has a legacy of PGM activity, PGMs continue to be active regardless of regime type, the degree of regime institutionalization and longevity, and the duration of individual rulers" (Ahram, 2016, p. 208).

As I will elaborate in the following chapters, not exactly "state weakness" but rather the "state's *infrastructural* incapacity in northern Kurdistan," "national defense," "plausible deniability," and "historical legacy" are all important notions and parameters for understanding why the Turkish state has resorted to paramilitary violence. Before examining the interrelated relationship of these notions and parameters in the following parts of this thesis, I will first explain my choice of historical focus and case study.

1.4. *Why* the 1990s and JİTEM?

The importance and uniqueness of the 1990s as a period and of JİTEM as a phenomenon lie in the extent of the violence between the TSK and the PKK and, more broadly, in the transformation of the state's war strategy. On a global scale, the 1990s heralded a new era in which the US-led Western Bloc hailed the dissolution of the Soviet Union on 26 December 1991 as the triumph of liberal democracy and market economy against the communism of the Eastern Bloc. Throughout the preceding Cold War, these two superpowers had, in their pursuit of global hegemony, ignited and sustained numerous proxy wars within the borders of other countries such as Korea, Algeria, and Vietnam, transforming the rules of war in the process. As asymmetric, indirect, and non-front-based types of war such as civil wars, low-intensity conflicts, guerrilla warfare, terrorism, and other irregular and unconventional types (Kaldor, 2012, p. 2) became the norm, the distinction between state and non-state and, thus, between formal and informal actors became increasingly blurred.

Benefiting from the Marshall Plan (a financial recovery program offered by the USA in 1948) and from joining the North Atlantic Treaty Organization (NATO) in 1952, Turkey positioned itself within the Western Bloc during the Cold War. The country's domestic policy of the period rested on the suppression of left-wing opposition groups through anti-communist propaganda (Özman & Yazıcı Yakın, 2012). As will be detailed in Chapter 2, this propaganda was carried out extensively by the NATO-linked Special Warfare Department (ÖHD: *Özel Harp Dairesi*) (Kılıç, 2010).

The ÖHD was, in fact, the Turkish branch of NATO's larger Operation Gladio[5] strategy aimed at designing stay-behind operations (with the mission of spreading fear among the population by resorting to paramilitary activities such as espionage, sabotage, assassination, bombing massacres, torture, etc.) against communist resistance in the Western Block and neutral countries (Ganser, 2005; Ünver, 2009). Although the other NATO-linked secret armies around the world were alleged to be disclosed and disbanded by host countries following the dissolution of the USSR, Turkey instead transformed its controversial ÖHD into an official Special Forces Command (ÖKK: *Özel Kuvvetler Komutanlığı*) in 1992 (Kılıç, 2010).

The 1990s affected Turkey the most in terms of what constituted the enemy transformed. While "anti-communism" had functioned as a catch-all term to silence opposition groups during the Cold War years, the launch of the PKK's armed insurrection as a guerrilla movement against the TSK in 1984 shifted the Turkish state's "internal enemy" perception and its COIN policy for years to come. Armed Kurdish resistance did not start with the PKK; indeed, it can be traced back to the earliest Republican years (White, 2000; Kahraman, 2004; Jwaideh, 2006). However, the emergence of PKK guerrilla warfare precipitated a methodological move away from conventional army and warfare tactics to unconventional, low-intensity conflict tactics (Kışlalı, 1996; Özdağ, 2005; Balta Paker, 2010; A. Işık, 2020).

The newly emerging world order after the Cold War and the thriving international media made human rights abuses more visible worldwide, and this situation strengthened governmental and non-governmental institutions and their rhetoric on human rights. Positioning itself in line with western values, Turkey attempted to integrate into the market economy while also searching for new methods to fight against the PKK without attracting condemnation from human rights organizations

[5] Other stay-behind branches of Operation Gladio: Absalon in Denmark; Aginter in Portugal; Auxiliary Units in the UK; Bund Deutscher Jugend (BJD) and Technischer Dienst (TD) in Germany; Gladio in Italy and Central Europe; Grupo Antiterrorista de Liberacion (GAL) in Spain; Informationbyran in Sweden; Intelligence and Operations (I & O) in the Netherlands; Mountain Raider Companies (LOK) in Greece; Nihtilä-Haahti in Finland; Oesterreichischer Wander-Sport und Geselligkeitsverein (OWSGV) in Austria; Plan Bleu, La Rose des Vents, and Arc-en Ciel in France; Projeckt-26 in Switzerland; Rocambole (ROC) in Norway; Service de Documentation, de Renesignments et D'action VIII (SDRA-8), Sectie Training, Communicatie en Documentatie (STC/Mob) in Belgium (Ünver, 2009, pp. 6–7).

in the international arena. The result was that while the country legalized a state of emergency (OHAL: *Olağanüstü Hal*) rule in the Southeast between 1987 and 2002 through discourses of national security and counter-terrorism, the state also committed atrocities against Kurdish society through its low-intensity conflict strategy (A. Aydın & Ermence, 2015).

As opposed to the large-scale manpower losses caused by WWII, the threat of nuclear power in the hands of two great superpowers, and the guerrilla warfare of the Cold War era, the post-Cold War doctrine of low-intensity conflict (LIC) provided countries with a new military perspective. Of course, while this doctrine was conceptualized by the USA in the late 1970s, it had a much older history in the field of practice, especially with the *small war* operations of Great Britain in its colonies like Malaya, Kenya, and Cyprus during the 1950s (Hoffman & Taw, 1991).

The US army defined LIC in a 1990 military field manual as a "political-military confrontation between contending states or groups below conventional war and above the routine, peaceful competition among states" (U.S. Departments of the Army and the Air Force, 1990, p. 1). Hence, this concept emphasizes the political dimension on par with the military dimension. As an umbrella term encompassing all insurgency, counterinsurgency, coups d'état, transnational terrorism, counter-terrorism, narco-conflicts, and minor conventional war tactics in connection with all political, economic, technological, and psychological warfare strategies (Collins, 1990, p. 5), the LIC doctrine focuses not only on the defeat of armed enemy groups but also on the winning of civilians' *hearts and minds* in the region of conflict (Kalyvas, 2006, p. 8). While this doctrine creates sympathizers and collaborators for the conflicting parties on the one hand, it can also lead to serious human rights abuses for the masses who cannot determine their side or those who stand against the strong side in the conflict.

In the case of Turkey, the OHAL rule in the Southeast laid the required ground for implementing a LIC strategy. As I will analyze in Chapter 3, the region's extraordinary status enabled Turkey to re-assign northern Kurdistan as an area where rule *by* law was in practice rather than rule *of* law (Agamben, 2005; Parslow, 2015), so much so that statutory decrees that governed the region between 1987 and 2002 provided a basis for the extra-legal ascendancy of the law-making power of the state by widening impunity over the arbitrary practices of the state authorities and military personnel serving in the region. As I will show in this thesis, the illegal formation of JİTEM in the

OHAL region was not a coincidence but an exact reflection of this arbitrariness created within the ambiguous area between the law-making and law-preserving powers of the state.

JİTEM was not the only paramilitary group that operated in the region during the 1990s. The exceptional status of the OHAL region also facilitated the emergence and operation of Village Guards, PÖH, and Hizbullah. These groups, which were formed according to LIC logic, were separated from each other according to their relationships with the state. I evaluate these relationships in terms of both cooperation and legal status. Accordingly, Village Guards and Hizbullah appeared as cooperation groups comprising local people from the OHAL region who took a stand against the PKK. While state incentive was influential in the formation of Village Guards, it was a religious ideology that incentivized Hizbullah against the PKK's secular stand. Furthermore, while the state cooperated overtly with Village Guards, supporting them financially and with equipment, it maintained a more covert relationship with the latter, disregarding Hizbullah's criminal actions (Human Rights Watch, 2000). Finally, it is also possible to consider all four formations according to their legal positions. In this context, while Village Guards and PÖH teams emerged as semi-official formations of the state depending on the legal regulations that they were subject to, JİTEM and Hizbullah appeared as informal formations (A. Işık, 2020, p. 7). However, while Hizbullah organized itself outside the state, JİTEM was an illegal formation organized entirely within the state's official gendarmerie institution.

What distinguishes JİTEM from the three other organizations is that it stands in the middle of the rule *by* law vs. rule *of* law debate caused by the state of exception. As I will detail through my analysis of testimonies in Chapters 3 and 4, JİTEM was a unit created with the temporary permission of the Gendarmerie General Command. According to this narrative, JİTEM was born out of necessity with the purpose of an effective fight against the PKK. However, in practice, the unit's extra-legal actions – in line with the LIC doctrine and paramilitarism – targeted civilians rather than PKK militants. As I will reveal in detail in Chapter 3, a range of targeted killings was intended to break PKK sympathies among civilians and to intimidate them. Furthermore, as we shall also see in this thesis, JİTEM is important in its close relationship and cooperation with other paramilitary groups in the region, such as village guards and PÖH teams.

1.5. Methodology and Plan of the Thesis

Because of their clandestine nature, the greatest challenge in researching paramilitary groups is accessing official and reliable resources not only about the organizations but also the people affiliated with them. Material that has nonetheless facilitated the present research on paramilitary groups falls into three categories: 1) human rights organizations' reports to reveal the existence and activities of PGMs together with the work of transitional justice mechanisms that aim to reveal states' past grave human rights violations, such as that seen during the work of the International Criminal Tribunal for the former Yugoslavia (Gow et al., 2014); 2) media coverage of and investigative journalism prompted by scandalous events and leaks in domestic politics, such as those seen during the Cold War European-wide Operation Gladio (Ganser, 2005); and 3) confessions and accounts of paramilitary militia members themselves.

Hence, this thesis employs sources ranging from journalistic accounts and news items from mass media to NGO reports, official statements, and state reports, particularly those published after the Susurluk Scandal and the Ergenekon investigation, as well as published statements by alleged JİTEM members. Although there is no transitional justice process in Turkey, there have been ongoing JİTEM trials since 2009 at the time of writing this thesis. Finally, this thesis also draws on case indictments and witness and defendant statements. It is crucial to stress that although there are many investigative journalistic works on JİTEM in Turkish, JİTEM will be discussed in this thesis for the first time with such a large combination of sources translated into English.

Since JİTEM has not been officially revealed, discussions on the organization generally proceed within the conflicted frames of denial, tacit admission, and admission of its existence and activities. This thesis dissects the crucial discussion about the organization through a discourse analysis of material related to the different actors and levels of both the state and JİTEM. In doing so, first, I position JİTEM as part of a structure-centered macro-level and thus explore the historical and legal legacies behind the state's inclination to generate clandestine and informal links with paramilitary groups. Second, in the context of the Kurdish-Turkish conflict, I analyze the historical and legal context of the creation and operations of JİTEM in the 1990s. Third, I add an agency-centered micro-level perspective to this broader issue, enabling me to delve deeper into ex-JİTEM members' personal motivations in participating in the organization.

As such, with the introduction and conclusion parts, this thesis consists of eight chapters. Following this present introductory chapter, Chapters 2 and 3 constitute the structure-centered part of the

thesis and respectively explore the historical and legal legacy of the state to delegate its monopoly on violence to paramilitary groups and the place of JİTEM in this broader context. Chapter 2 summarizes the paramilitary history of the Turkish state from the 19th-century Ottoman era to the late 1970s of modern Turkey, focusing on the origins of both paramilitary violence and the consolidation of the deep state structure in the Turkish state.

Chapter 3 shows how the previously discussed paramilitary violence in Chapter 2 reorganized in the 1980s and 1990s, drawing on the existing literature as well as on primary sources consisting of legal documents from the 1990s (e.g., the village guard law, repentance laws, OHAL law, and anti-terror law) to understand the political and legal ground that facilitated the creation of JİTEM and its activities. Chapter 3 also presents an in-depth case study of the organizational structure and activities of JİTEM as a state-supported informal paramilitary organization – specifically, a death squad. For this purpose, I draw mostly on primary sources including state reports and published personal accounts, backed up by secondary sources such as investigative journalism books and media coverage of JİTEM. Hence, a large part of the research process entailed meticulously compiling items from the print media of the 1990s, including daily newspapers and weekly political news magazines. While inspecting this material, it is crucial to keep in mind several important structural dynamics of the period.

State-censorship and self-censorship have been the biggest obstacles to press freedom in Turkey since the beginning of the Republican era (Alpay, 2010). Print media has been under the control of certain families (such as the Nadi family's daily *Cumhuriyet* and the Simavi family's daily *Hürriyet*) since the Republic's early years. Apart from print media, TV and radio were under a state monopoly until the 1990s, when liberalization allowed two family conglomerates to take over the market as giant rivals, namely Aydın Doğan's Doğan Holding (including the dailies *Milliyet*, *Hürriyet*, *Posta*, and *Radikal* and TV stations *Kanal D* and *CNN-Turk*) and Dinç Bilgin's Medya Holding (including the dailies *Sabah*, *Takvim*, and *Yeni Yüzyıl* and the TV station *ATV*). However, as both these media empires owed their growth to government subsidies, their media outlets have routinely adjusted their self-censored pro-state editorial policies according to their bosses' political and economic proclivities.

For the overall research in this thesis, I first searched the archives of the pro-Kemalist *Cumhuriyet*, pro-state *Hürriyet*, and *Milliyet* daily newspapers. Since this yielded very few finds about JİTEM, I

added the archives of the pro-Kurdish *Gündem*, pro-socialist *Aydınlık*, and pro-nationalist *Yeni Ufuk* to my research. While I did find more diverse coverage of JİTEM in these publications, the first two of these dailies were also subject to state pressure at various times. Furthermore, the *Gündem* newspaper office was the target of a bomb attack in 1994 because of its critical media coverage, and many of its employees and distributors fell victim to unsolved murders.

In addition to these newspapers, weekly publications carrying investigative journalism constitute the backbone of this thesis. In particular, research in the archives of the most critical 1990s political magazines *İkibin'e Doğru* and *Nokta*, and pro-state magazines *Panorama*, *Tempo*, and *Yeni Aktüel* showed that, compared to the dailies, these magazines covered the Kurdish question, COIN policies of the state, and JİTEM more regularly and substantially. Among them, *İkibin'e Doğru* was the most critical left-wing print media source that reported for the first time on JİTEM and Hizbullah in the early 1990s. *İkibin'e Doğru* had to end its publishing due to state pressure in 1992, while the other publications continued until the 2010s.

Chapters 4, 5, and 6 present the results of the agency-centered part of this research. For each chapter, I present and contextualize the personal accounts of two people related to JİTEM: a General Commander of the Turkish Gendarmerie Forces (Teoman Koman), a former Colonel (Arif Doğan), a former Major (Cem Ersever), a JİTEM hitman (Mahmut Yıldırım), a former Village Guard (Berdan Akdağ), and a PKK defector (Abdülkadir Aygan). All three chapters reveal these actors' verbal performances as being located on a spectrum stretching between denial, tacit admission, admission, and critical confession. With the aggravation of the JİTEM debate caused by the Ergenekon investigation, an outpouring of primary and secondary sources was published while key actors made mainstream media appearances. Therefore, this part of the thesis particularly utilizes ex-JİTEM members' published books and interviews, as well as their appearances and statements in mainstream media or on YouTube together with secondary sources such as works of investigative journalism and general media coverage.

To build a bridge between the respective focuses on structure and agency, Chapter 7 highlights the JİTEM trials that have been ongoing since 2009. Specifically, this chapter examines the difficulties encountered during the investigation and trial processes of five JİTEM cases: the Main JİTEM and Musa Anter's Murder Trial (*Musa Anter ve JİTEM Ana Davası*), the Cizre JİTEM Trial (*Cizre JİTEM Davası*), the Ankara JİTEM Trial (*Ankara JİTEM Davası*), the Kızıltepe JİTEM Trial

(*Kızıltepe JİTEM Davası*), and the Dargeçit JİTEM Trial (*Dargeçit JİTEM Davası*). This chapter uses case indictments and hearing notes as primary sources and media coverage of the trials for secondary sources.

The conclusion in Chapter 8 makes a general evaluation of the questions asked and the arguments put forward throughout the thesis. In this regard, Chapter 8 presents an overall analysis of the impact of the historical and legal legacy of the Turkish state on, first, the creation of JİTEM and, second, the participation motives of perpetrators within this organization.

2. The Legal Origins of Paramilitary Violence in the Formation of the Modern Turkish State

2.1. Introduction

In this chapter, I will examine how law was instrumentalized in the historical emergence and continuation of paramilitary violence from late Ottoman history into the late 1970s and thus demonstrate the existence of a nexus between modern state formation and paramilitary violence. I will analyze this historical process in light of the construction and operation of contractual violence within the tension between *law-making* and *law-preserving* powers of the modern Turkish state. Later in this chapter, I will also illustrate how this contractual violence created a dual state structure between the rule *of* law and rule *by* law within the state structure.

As highlighted in Chapter 1, the nexus between states and paramilitary groups is classified in the literature as either "state-supported/state-manipulated" or "state-parallel" in terms of functionality and as either "semi-official" or "informal" in terms of legality. As will be revealed in this chapter, the Turkish state has, thus far, generated a supporting functional relationship with paramilitary groups. Thus, the main focus of this chapter is to document how state-supported pro-state militia groups have operated throughout modern history by examining their legal nexus with the Turkish state. In doing so, I divide the phases of this history into four periods: 1891–1913, 1914–1923, 1924–1952, and 1952–1980, each with distinct features in the relationship between paramilitary violence and deep state structure. I start the periodization in the late Ottoman era rather than with the foundation of the Republic of Turkey in 1923 because, during the 1890s, the state for the first time formed a paramilitary relationship with a group following its efforts of creating a modern and centralized state in the Weberian sense.

The Ottoman Empire had already taken the first steps towards a monopoly on violence in 1826 by destroying the Janissary corps as a long-standing barrier to Ottoman efforts for establishing a modern standing army. The bloody clampdown on the Janissaries enabled Sultan Mahmud II to establish the desired army under the name of *Asakir-i Mansure-i Muhammediye* (Victorious Soldiers of the Prophet Muhammed) in the same year (Uyar & Erickson, 2009, pp. 130–131). This Mansure army, which would be the main army of the Empire until its collapse in 1918, was

modeled on modern European armies (Yildiz, 2012). Modernizing and centralizing military reforms were then followed by many others, e.g., the 1839 *Tanzimat* and 1856 *Islahat* reforms, the Provincial Law of 1864, and the promulgation of the first Ottoman Constitution (*Kanun-i Esasi*) in 1876, all aiming at the modernization and monopolization of state authority within the Empire. These reforms would readjust state/citizen-relationships in favor of the non-Muslim constituents of the Empire while strengthening the bureaucratic network in the face of the Empire's decentralized structure.

However, this process did not take shape only upon the initiative of the Ottoman ruling elite; it also materialized contentiously between many coercive external and internal factors. Among the external factors were nationalist inspirations from the French Revolution (1789) among diverse ethnic groups of the Empire and colossal territorial losses due to long-standing wars with western powers and Russia. One dire consequence of these wars was, since the 18th century, demands made on the Empire to reform the legal status of non-Muslim constituents. The most decisive among the internal factors was the emergence of pro-western intelligentsia groups in the 19th century – called the Young Ottomans and Young Turks, respectively – as a driving force in modernizing the conservative Ottoman bureaucracy (Mardin, 1973; Levy, 1982; Uyar & Erickson, 2009; Zürcher, 2010).

The transformative impact of these external and internal factors also influenced the rise and consolidation of the modern Turkish nation-state in the 20th century. Turkologist Erik J. Zürcher explains this transition process with a thesis of continuity rather than rupture; indeed, there was a great deal of "continuity between the late Ottoman Empire, particularly the Young Turk period and the Kemalist republic, politically, ideologically and socially" (Zürcher, 2010, p. 285).

This chapter will contribute a legal dimension to this continuity thesis through a discussion of the notions of rule *of* law vs. rule *by* law. As the multi-ethnic and multi-religious imperial identity gave way to an exclusive Sunni-Muslim Turkish nationalist hegemony (alongside other more inclusive

hegemonic projects such as pan-Ottomanism and pan-Islamism[6]), law was instrumentalized on the masses who did not comply with the newly emerged Turkishness myth or *contract* (Ünlü, 2018).

2.2. 1891–1913: Formation of Paramilitary Origins in Turkey

This first period covers the years from the establishment of the first paramilitary organization, *Hamidiye Alayları* (Hamidiye Regiments), as an auxiliary force of the modern Ottoman army in 1891, up to the 1913 Ottoman coup d'état. This period witnessed the most marked weakening of the state with the abovementioned internal and external tensions. The prominent debates of this period revolved around three main hegemonic projects that sought to prevent the Empire from collapsing: pan-Ottomanism, pan-Islamism, and pan-Turkism.

In the domestic realm, the Young Turks or Unionists (*İttihadçılar*) were organized under the Committee of Union and Progress (CUP: *İttihad ve Terakki Cemiyeti*) in 1889 and quickly developed into a modernist political challenge against the sultan's monarchical power (Zürcher, 1984; Hanioğlu, 2001). They forced Sultan Abdülhamid II (1876–1909) to adopt both the democratic power of the newly written Ottoman Constitution (*Kanun-i Esasi*) and the newly formed Ottoman Parliament (First Constitutional Era: 1876–1878, Second Constitutional Era: 1908–1912) and eventually captured the government through a coup d'état in 1913.

In the international realm, the Empire was on the brink of disintegration and bankruptcy due to the Balkan uprisings and the Russo-Ottoman War of 1877–1878 (Blumi, 2013, pp. 17–42). While all these crises increased the tension between the non-Muslim and Muslim constituents of the Empire, large territorial losses in the East and West caused hundreds of thousands of Muslims to migrate to Anatolia, which furthered the collapse of pan-Ottomanism as a hegemony project. Indeed, while the pan-Ottomanism and pan-Islamism projects of the CUP and Sultan Abdülhamid II were prominent until 1913, the traumatic loss of the Balkans greatly boosted the rise of pan-Turkic propaganda after the 1913 coup.

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[6] For a detailed periodization and construction of pan-Ottomanism, pan-Islamism, and pan-Turkism as hegemony projects, see Üngör, 2011; Ünlü, 2018.

In light of this historical background, this part of the chapter will examine Abdülhamid II's Hamidiye Light Cavalry Regiments in the east and the CUP's Voluntary *Fedai* Branches in the west as two early paramilitary groups of the state.

2.2.1. Formation of the Hamidiye Regiments (1891–1909)

The Hamidiye Light Cavalry Regiments (*Hamidiye Hafif Süvari Alayları*) were formed in 1891 upon an 1890 decree by Sultan Abdülhamid II (Klein, 2011), modeled after the Russian Empire's Cossack Regiments (Duguid, 1973, p. 151). These regiments were the first semi-official paramilitary organizations of the state by which it delegated its monopoly over violence to some tribes in northern Kurdistan. While the participation of Arab, Turkoman, and Karapapak tribes was also envisaged in the formation phase of the Hamidiye Regiments, they were almost entirely composed of Sunni Kurdish tribes; only a few of the sixty-four or sixty-five tribes were Arab or Karapapak (Klein, 2011, p. 49).

According to the establishment decree of the Regiments, they were officially formed as an auxiliary force for "increasing and multiplying the general strength of the Ottoman forces" in the east to "protect the country against foreign assaults and aggression" (Klein, 2011, p. 20). This official reason was a clear indication of the weakness of the state's capacity to maintain its monopoly over violence in the east. Thus, on paper, the main goal behind forming the Hamidiye Regiments was patrolling the Russo-Ottoman frontier threatened by ongoing conflicts between two forces.

However, existing research (Duguid, 1973; Kodaman, 1987; Klein, 2011; A. Işık, 2020) reveals further strategic goals that were not enunciated in the decree. The first was the state's effort to restrain Armenian and Kurdish national awakenings by using the latter against the former under the banner of Muslim solidarity. The second was to restore authority to Kurdish tribes who had lost power during the centralization process and become a threat to the state's bureaucratic authority in the region as a result.

The negotiations with Kurdish tribes in the state's balance of power policy actually date back to the 16th century when Ottoman and Kurdish relations officially started. Eastern Anatolia, mostly inhabited by Kurds, had long been perceived as a buffer zone between the Ottomans and Safavids, until war broke out between these two powers in the 16th century and the region became a conflict

zone. Accordingly, whoever had the support of the Kurdish *beg*s, who maintained their political independence in the form of principalities and emirates in the region, could increase the possibility of winning the war (Bozarslan, 2004, p. 24).

The religious privilege of the Sunni Ottoman state eventually succeeded in gaining this support against the Shiite Safavids since most Kurdish tribes in Anatolia – apart from Kızılbash Alevis – followed Sunni Islam. Apart from the religious privilege, this support was also provided on the condition that the Kurdish emirates would maintain their quasi-independent status in the forms of principalities and emirates under Ottoman sovereignty (White, 2000, p. 55). Hence, Kurdish *beg*s enjoyed quasi-independence until the Ottoman centralization reforms started in the 19th century, which subordinated them to the bureaucratic control of *vali*s (governors) and *kaymakam*s (district governors) appointed from the center. This process was met with Kurdish riots in the region, further compounded by the fact that the Empire, due to its defeat at the hands of Russia during the 1877–1878 war, was forced to institute reforms in favor of the Armenian population in the region.

Indeed, the Treaty of Berlin that ended the war not only caused the Empire to lose great swaths of territory in both the Balkans and in the East; Article 61 of the Treaty tasked the Ottoman Empire with improving the local status of Armenians in the mostly Armenian-inhabited eastern provinces, including a security guarantee against the Circassians and Kurds (Klein, 2011, p. 21). This brought Kurdish tribes to fear that an Armenian state might be established in eastern Anatolia and incited them to revolt. Sheikh Ubeydullah, the leader of the revolt in 1879, criticized the Treaty: "What is this I hear: that the Armenians are going to have an independent state in Van and the Nestorians are going to hoist the British flag and declare themselves British subjects[?] I will never permit it, even if I have to arm the women!" (Olson, 1989, pp. 8–9).

The Ottoman Empire's centralization policies in the region had eroded the authority of the traditional emirates, leaving a regional power vacuum to tribal feuds. Therefore, the formation of the Hamidiye Regiments strengthened the hand of the state in two ways. On the one hand, the authority lost to centralization was reassigned to particular Kurdish tribes, allowing the state to create a new balance of power by playing weaker tribes against stronger tribes (Duguid, 1973, pp. 145–146). On the other hand, the support for these tribes also worked as a counterbalance against the Tsar-supported Armenian national awakening in the region.

Based on the decree of 1890, the central government tasked the *vali*s of the eastern provinces to persuade the Kurdish tribal chiefs in their area of the responsibility to organize volunteer cavalry troops as auxiliary forces to the Ottoman army (Duguid, 1973, p. 145). Thus, for the first time in history, the Ottoman state, which had tried to establish its military and administrative centralization in the Weberian sense since the early 19th century, needed a paramilitary organization to share its monopoly over violence. These irregular troops – under the command of the Sultan's brother-in-law, Zeki Pasha – were organized under the domain of the Fourth Army based in the eastern province of Erzincan (Klein, 2011, p. 3). Enlisted chiefs were also invited to İstanbul and a royal ceremony was held there for them, which historian Janet Klein interprets as the creation of a "bond of loyalty between the tribes and the sultan—a very personal bond" (Klein, 2011, p. 28). Nevertheless, Kurdish tribes' loyalty and trust were not easily attained as the Empire clearly harmed Kurdish regional quasi-independence.

The bond was actually restored through two main laws on the formation of the Hamidiye Cavalry Regiments in 1891 and 1896, respectively, which reestablished the Kurdish authority in the region (Kodaman, 1987). According to the first law, each regiment would consist of at least 512 and at most 1152 men (Article 2) between the ages of 17 and 40 (Article 7); two sergeants to be selected from each regiment would be sent to the central army, and a child would be sent to the Cavalry School in İstanbul for military training (Article 18); tribal leaders of the regiments would be promoted to the rank of Colonel according to their service quality, but their superior officers would be sent from the main army of the state (Articles 22–25); rifles and ammunition would be given to the regiments by the state (Article 18); depending on war and peace conditions, the officers and soldiers of the regiments would be paid salaries and regimental militias would be exempt from ordinary conscription (Articles 26–52) (Kodaman, 1987, pp. 33–36).

The second law was largely the same as the first, except that it brought great economic advantage to the Hamidiye militias. According to Article 65, participants would be granted exemption from certain taxes (Kodaman, 1987, p. 44). The law, in other words, was promulgated to make participation in the Hamidiye Regiments more attractive. It worked, too. According to historian Robert Olson, the Hamidiye militants, whose number reached 47,000 in the mid-1890s, rose to 53,000 by August 1910 (Olson, 1989, pp. 10–11).

However, there was another issue that neither law clarified: How would the Hamidiye militants be judged if they were involved in crimes? In practice, the most attractive feature of participation in the Hamidiye Regiments was, indeed, the *de facto* impunity granted to the participants. From the beginning, for example, many notorious tribal chiefs benefited from amnesty for their past crimes as a bargaining chip to form a Hamidiye regiment (Klein, 2011, p. 32). In cases where a Kurdish militia violated any law, the standard policy was that the regiment leader would be held responsible for that action. Since the regiment leaders had official ranks, their trial fell within the domain of the military court, which was under the direct control of Zeki Pasha, also known as the creator of the Hamidiye Regiments and protector of the Kurds in the region. As historian Stephen Duguid argues, "the results [*of the trials, Ed.*] were virtually always acquittal or nominal fines" (Duguid, 1973, p. 152).

Attacks against non-Muslims, and especially the Armenians in the region, reveal that this *de facto* impunity led to the establishment of contractual violence between the state and the Hamidiye troops. Instead of guarding the Russo-Ottoman borders against foreign aggression, the Regiments played a significant role during the elimination of the "internal enemy" through the Armenian massacres (Klein, 2011, p. 5). These attacks also resulted in rape, plunder, and forced seizure of Armenian properties and lands by Regiment members (Üngör & Polatel, 2011, p. 22). Thus, the Hamidiye Regiments were a win-win policy for both the state and Kurdish chieftains, establishing a counter-balance against Armenian nationalist and socialist movements while massacres reduced the Armenian population so as to further curb demands for reform. Additionally, the collaboration was also politically and economically favorable for the Kurdish tribes as chieftains benefitted both from certain tax exemptions and the annexation of Armenian property and lands.

The fact that the new rulers of the Empire maintained the Regiments even after the deposition of Abdülhamid II in April 1909 shows how valuable this collaboration was for the state. The CUP authorities merely removed the reference to Abdülhamid in the name of the Regiments and changed it to the "Tribal Light Cavalry Regiments (*Aşiret Hafif Süvari Alayları*)" (Klein, 2011, p. 5). With the Empire entering the First World War (WWI) in 1914, these Regiments would play their final role vis-a-vis the Armenian question by partaking in the Armenian genocide in 1915.

2.2.2. Formation of *Fedai* Branches

The previous section has discussed how the Russo-Ottoman wars and their domestic impact in the east pushed Abdülhamid II to subcontract the monopoly over violence to tribal chieftains under the Hamidiye Regiments. This section focuses on the impacts of the conflictual situation in the Balkans on the creation of another paramilitary organization under the control of CUP authorities, namely the *Fedai*[7] Branches (Hanioğlu, 2001, p. 217).

Since the early 19th century, ethnic groups in the Balkan region were in conflict with each other and with the Ottoman Empire in each of their own nation-building processes, pursuing different survival projects in the face of the great powers' intervention and state-making projects (Blumi, 2011). The cycle that started with the First Serbian Uprising of 1804 escalated with the Bosnian War of 1877–1878 and ended with the Balkan Wars of 1912 and 1913 (Newman, 2012, p. 146). Many of these conflicts involved small units of armed men – also known as *čete* or *četa* (the Turkish equivalent is *çete*, also known as *komitadji* by Ottomans) (Blumi, 2011; Newman, 2012). Historian John Paul Newman states that many of these *čete*s were established by pro-autonomy or pro-independence organizations such as the Internal Macedonian Revolutionary Organization (IMRO) in order to promote national sentiments in the Ottoman Balkans. These paramilitary gangs were also largely used as auxiliary forces for regular armies of Balkan nations during the Balkan wars (Newman, 2012, pp. 147–148).

In 1908, the CUP forced Sultan Abdülhamid II to reinstate constitutional monarchy through the restoration of the 1876 Constitution and the revival of the Ottoman Parliament. In the General Elections of 1908 – also known as the 1908 Revolution – the CUP only occupied 60 seats of the total 275, but due to a fragmented parliament structure, it nonetheless formed the biggest party. The Committee also reformulated its internal regulations in the same year, and with inspiration from the Macedonian IMRO and the revolutionary Armenian Dashnaktsutiun organizations, it devoted Articles 48–55 to the creation of a new paramilitary organization, *Fedai Şubeleri* (the *Fedai* Branches) (Tunaya, 1988, pp. 55–56; Hanioğlu, 2001, p. 217).

According to Article 48,

[7] *Fedai* literally means a self-sacrificing volunteer.

> while all members who join the committee should sacrifice their lives for the sacred cause of the committee where necessary, those members who wish to be enlisted as self-sacrificing volunteers by their own will and for special actions should forward their names to the executive committee [of their branch] through the guide of the branch of which they are members (Hanioğlu, 2001, p. 217).

Only the executive committee members of a branch would know the names of *fedai*s, and *Fedai* Branches would not act on their own without approval from the CUP's internal headquarters. However, *fedai*s would have an option to propose actions to local *fedai* branches (Article 52). If a local *Fedai* Branch's action needed a single volunteer, this person would be chosen by drawing lots, but if an action needed several *fedai*s, it would be carried out by a *Fedai* Branch (Article 50) (Tunaya, 1988, pp. 55–56). These articles, in other words, represented the establishment of a paramilitary organization – specifically, since it was not created by a state decree or law but through a political party's decision, an *informal* paramilitary formation.

The branches mostly operated as death squads targeting dissidents against the CUP (Safi, 2012, pp. 84–94) as well as for counter-insurgent intelligence operations and for *çete* organization of local resistance against nationalist movements, particularly in the Balkans (Üngör, 2012, pp. 164–183; Safi, 2012, pp. 84–94; A. Işık, 2020, p. 27). Gingeras and Üngör emphasize that the participants mostly consisted of vindictive refugees from the Balkans, North Caucasus, and Black Sea region who were displaced from their lands due to long-standing wars and thus ready to fight for the CUP's nationalist cause against political dissidents and non-Muslim populations (Gingeras, 2010b, p. 218, 2014, pp. 32–36; Üngör, 2012, p. 168).

Based on the internal regulations, the CUP's relationship with the *fedai* units was actually making the paramilitary violence contracted between CUP authorities and the *Fedai* Branches. To show how this contract was beneficial to both parties, it is helpful to employ Gingeras's definition of paramilitarism as "a political, economic, and social institution that enabled both statist and resistance factions to mobilize popular support" (Gingeras, 2009, p. 6). As with the semi-official case of the Hamidiye Regiments, in the informal case of *Fedai* organization, too, participants operated with economic gain from either direct payment or pillage under the CUP's impunity guarantee (Üngör, 2012, p. 168). In addition to liquidating political opponents, as

Gingeras notes, *fedai* militias were also tasked with overseeing Muslim labor unions against non-Muslim competitors (Gingeras, 2010b, p. 218).

This section has reviewed the first period of how the state – in search of modernization and centralization – resorted to paramilitary violence to strengthen its weak state capacity to save the Empire from collapse. However, neither the semiformal relationship established with the Hamidiye Regiments nor the informal relationship established with the *Fedai* Branches saved the Empire from disintegration. The next section will focus on the role of paramilitary violence in creating a new state from the collapsed one by highlighting the emergence of the deep state structure in the state functioning.

2.3. 1914–1923: Institutionalization of the Deep State in Turkey

I categorize the second period as a transition period from the failed Ottoman state to the rise of a modern nation-state. I date the beginning of this process to 1914, when the CUP authorities declared war on the allied forces by joining the central powers in WWI, which resulted in the defeat and *de jure* disintegration of the Ottoman Empire, with 1923 and the foundation of the Republic of Turkey marking the end of the period.

In this section, I specifically analyze the *Teşkilat-ı Mahsusa* (TM: Special Organization) as the paramilitary wing of the CUP government for two reasons. First, the TM was the formative institutionalization of the clandestine network previously established by the CUP authorities as gangs and volunteer patriot fighters. Second, this institutionalization of the informal links within the state also marked the emergence of the deep state phenomenon that would make its presence felt throughout the entire Republican history.

Scholars working on the Turkish deep state refer to a clandestine network established among the executive (e.g., elected governments, appointed bureaucracy) and security (e.g., army, security directorate, intelligence agencies) branches of the state and illicit groups (e.g., gangs, organized crime actors, patriot civilians) (Ünver, 2009; Gingeras, 2014; Söyler, 2015). All of these scholars trace the start of the deep state tradition in Turkey back to the 1908 Revolution, when the CUP authorities "indirectly took over the rule of Sultan Abdulhamit II, rendering subsequent Sultans and governments subservient to the young Ottoman military officers" (Ünver, 2009).

Indeed, the period between 1908 and 1913 constitutes a critical juncture in the emergence of the deep state in Turkey (Söyler, 2015, pp. 72–78). In this period, the informal relationship previously established by the CUP government with *fedai* assassins gained semiformal status with the complete seizure of the state by CUP authorities in 1913. Söyler explains this process with the emergence of *autocratic cliques* within the state, which aimed to strengthen the CUP authority on the way to the complete seizure of the state administration with the 1913 coup (Söyler, 2015, p. 77). She argues that the initial informal formation of the autocratic cliques within the state became institutionalized after the seizure of the state in 1913 under WWI conditions:

> Autocratic cliques were institutionalized after the triumvirate of Enver, Talat, and Cemal decided to enter the world war on the side of the losing Central Powers. Special Organization (Teşkilat-ı Mahsusa), the intelligence agency of the ITF, was the main autocratic clique of the deep state with its chief operators from the gangs formed by Muslim immigrants from North Caucasus and the Balkans recruited to the ITC during the Balkan War (Söyler, 2015, p. 77).

The section below explains this institutionalization with the formation of TM.

2.3.1. Formation of *Teşkilat-ı Mahsusa*

In its official history, Turkey's National Intelligence Organization (MİT: *Milli İstihabrat Teşkilatı*) describes the *Teşkilat-ı Mahsusa* as the first modern Turkish intelligence institution (İlter, 2002, p. vii). The same book informs the reader that the TM was established by the Unionist Minister of War Enver Pasha on 17 December 1913. The organization's foundational purposes are listed as ensuring the protection of the Ottoman state's political unity, preventing separatist movements, and opposing the intelligence and guerrilla activities of foreign states in the Middle East (İlter, 2002, p. 8).

Due to limited access to primary archival documents about the TM, it is not possible to ascertain the legal status of the organization. In his researches on the organization, Polat Safi points out

that although the TM was attached to the Ministry of War, there was no reference to the organization in the Ministry's foundation charts (Safi, 2012, p. 306).

Nevertheless, both the MİT's history and existing research reveal the TM to have been a semi-official paramilitary organization, a point testified by its financial and administrative status. The Ministry of War provided the main funding for the organization's expenditures from its discretionary allocation (Yiğit, 2014, p. 165) while, administratively, the leading cadres of the TM consisted of regular army members. For example, the TM's first chairperson, Süleyman Askeri Bey, was a major in the regular army (İlter, 2002, p. 8).

Furthermore, there was a symbiotic relationship between the TM and the *Fedai* Branches. It can be said that the *fedai* units went from an informal to a semiformal status after the CUP completely took over state rule in 1913, and due to their experience with irregular warfare, former *fedai*s became high-ranking officials in the TM (Moreau, 2018). Another continuity between the two organizations may be observed in their recruitment systems. As seen in the *Fedai* Branches, participants in the TM generally consisted of refugees and *çete* members (Moreau, 2018). Pardoned prisoners were added to the recruitment during the TM period.

In 1914, the Ministry of Justice issued a temporary law (permanent in 1916) on a special amnesty extended to "those people imprisoned who are needed for the irregular units" (Üngör, 2012, p. 169). As Üngör phrases it, "thousands of criminals were released from Ottoman prisons and drafted into paramilitary units" (Üngör, 2012, p. 169), further consolidating the deep state nexus between the government (CUP), security apparatus (Ministry of War, *Teşkilat-ı Mahsusa*), and illegal groups (gangs, pardoned prisoners). Law, in other words, was instrumentalized for paramilitary purposes and thus strengthened the contractual violence between the state and criminals under the impunity guarantee granted to the latter.

The TM started its activities in earnest in 1914 in the context of WWI. Although it was established as an intelligence organization – as stated in MİT's history – the organization not only dealt with espionage activities but also got involved in counterinsurgency operations. After the catastrophic defeat in the Balkans, it began to operate broadly in the east and in the Caucasus, where it was feared another region could be lost to the non-Muslims. For these activities, the TM reorganized itself under the name of the Office for Eastern Affairs (*Umur-i Şarkiye*) in 1915

(Moreau, 2018). Adopting the ideologies of pan-Turkism and pan-Islamism, the Office mostly cooperated with local gangs and tribes in both regions and played a significant role in the deportations and massacres of Armenians and other non-Muslim groups (e.g., Assyrians, Nestorians, and Pontic Greeks) and in destroying and confiscating their properties (Üngör, 2011, pp. 71–85; A. Işık, 2020, p. 29). For example, the Office employed the infamous Topal (Lame) Osman and his gang in the genocide against Armenians and Pontic Greeks in the Black Sea Region (A. Işık, 2020, p. 29). This collaboration with Topal Osman's gang was renewed in 1921 during the Turkish National Movement years (1919–1923) under Mustafa Kemal (Atatürk), this time against the Alevi Kurdish independence uprising in Koçgiri region in present-day Sivas province (Kahraman, 2004, pp. 267–275).

Collaboration with bandits was not actually a policy specific to the CUP administration or a 20th-century phenomenon for the state. As historian Karen Barkey explains in her book investigating the role of "Bandits and Bureaucrats on the Ottoman Route to State Centralization," the state's resorting to bandits can be traced back to the 17th century when the long-term rural *tımar* system (as one of the most crucial fiscal and manpower sources of the Ottoman treasury and army) was dissolved due to bureaucratic corruption in the distribution of *tımar* lands and the global monetary, political, and demographic crises that had prevailed from the early 16th century (Barkey, 1994; Söyler, 2015). As a result of the deteriorating traditional economy in the face of the thriving peripheral-capitalist economy, ex-*tımar* holders and their cavalrymen and peasants turned into rebellious bandits (Söyler, 2015, p. 63). However, the Ottoman state's policy in this chaotic transition process was not the elimination of the banditry, but rather a "brokerage style of bargaining," in the words of Barkey, with bandits (Barkey, 1994, p. 11). Accordingly, the main strategy of the Ottoman Empire was to collaborate with select bandits to suppress any rebellious activities in the periphery posed by peasants and other bandits in exchange for giving them status in both the military and provincial administration.

Thus, the Empire achieved a balance of power in its own interest, both between the center and periphery and between different power holders in the periphery, which Barkey explains with the strength, rather than the weakness, of the state to consolidate its power in the periphery during its decentralized times (Barkey, 1994, p. 192). Söyler defines this brokerage style of state consolidation as the informal source of the deep state (Söyler, 2015, p. 36), since the incorporation of bandits into state institutions continued to affect state policy with different goals

over the centuries, be it the consolidation of decentralized state power in the periphery in the 17th century or state formation in the 20th century.

This brief depiction of the long-term relationship between the state and bandits inevitably evokes Tilly's ironic analogy of *state-making* with organized crime (Tilly, 1985). Accordingly, the Turkish state did not only imitate the structure of organized crime in its state-formation processes (*war-making*, *state-making*, *protection*, *extraction*) (Tilly, 1985, p. 181); it also recruited organized crime agents themselves, as seen in the relationship between CUP authorities and criminal bandits and as will be seen again in the relationship between the state and mafia leaders in the fourth period (1952–1980) later in this chapter.

Turning again to *Teşkilat-ı Mahsusa*, it is possible to assert that this long-term *diplomacy* between the state and bandits contributed significantly to the organization of the national resistance in Anatolia after the TM was abolished. The TM/Office was officially dissolved after the state, led by CUP authorities, was defeated in WWI in 1918 (İlter, 2002, p. 10). However, the TM/Office militias continued their activities in various local resistance organizations, such as *Karakol*, *Yavuz*, *Hamza*, and *Felah* (Ünver, 2009). The most influential among them was the *Karakol* Society (*Karakol Cemiyeti*) in terms of organizing the Turkish resistance between occupied İstanbul and Anatolia following the defeat in WWI.

However, among countrywide fragmented resistance movements, the *Karakol* Society's hegemonic interests clashed with Atatürk's national struggle project to organize and conduct the leadership of the Turkish National Movement during the Turkish War of Independence (1919–1922). Nevertheless, Atatürk's project took center stage first with proving its monopoly of violence by uniting local resistance groups under the Association for the Defense of Rights of Anatolia and Rumelia (ADRAR: *Anadolu ve Rumeli Müdafaa-i Hukuk Cemiyeti*), and second with proving its law-making power by establishing the Government of the Grand National Assembly in Ankara in 1920. As the majority of the organizations gradually gathered under the authority of the ADRAR, the *Karakol Cemiyeti* continued its activities as a rival power for a while, but finally lost its power to the Ankara Government in 1920 (Karan, 2008, pp. 73–78).

2.4. 1924–1952: Paramilitarization of the State in Turkey

The third period covers the years from 1924, when the first constitution of the Republic was approved, to 1952, when the first state of exception practice of the Republic in the form of Inspectorates-General (*Umumi Müfettişlikler*) was dissolved.

As previously stated, Atatürk's hegemony project triumphed in the Turkish National Movement and established its authority with the foundation of the Republic of Turkey on 29 October 1923. While the foundation of the Republic legally put an end to the Ottoman state, it was also the ultimate triumph of the pan-Turkism project in Anatolia. The Ottoman state had effectively been dissolved with a law deciding on the abolition of the sultanate by the Government of the Grand National Assembly in Ankara on 1 November 1922 (Zürcher, 2010, p. 142). After this decision, the Ottoman dynasty had only the title of the caliphate, which was then functional for the Ankara Government's maintenance of a pan-Islamist link to the Muslim communities of Anatolia during the Independence War. Nevertheless, one of the first decisions of the newly founded Republic was the abolition of the caliphate on 3 March 1924, which meant the final defeat of the pan-Islamism project in the face of pan-Turkism (Zürcher, 2010, p. 142).

As the Kemalist ideology imposed a top-down modernization project under a uniform Turkishness myth glossing over the ethnically diverse constituents of Anatolia, this project was challenged many times by Kurds as the second-largest Sunni-Muslim group within the state. In this part, I analyze this early Republican period in light of specific legal documents marking the limits of the newly established state's law-making and law-preserving powers on the way to consolidating its monopoly on violence against every type of challenge to its authority.

I consider this period as paramilitarization of the state because the state easily exceeded its law-preserving boundaries in the name of national security and created new contractual situations with society under the cover of impunity. I claim that this gray zone between the state's law-preserving and law-making powers created a dual state structure in Turkey in the form of a dichotomy between a legal state and emergency state. To explain this, I will examine the Constitution of 1924, the Law of Temporary Village Guards, the Reform Plan for Eastern Anatolia, and the Law on the Formation of Inspectorates-General, respectively.

2.4.1. The Constitution of 1924

One of the first policies that the Republic of Turkey pursued was the promulgation of a new constitution in 1924 to define the newly established state's law-preserving power. The Ankara Government had proved its law-making power by successfully uniting the fragmented Anatolian resistance groups against occupying forces and by introducing the Constitution of 1921 during the years of national resistance as a transitional mechanism before the Republic was established and until the new constitution was introduced in 1924. A brief comparative analysis of the two constitutions will be useful in understanding the new sovereignty project of the state.

As discussed earlier, the previous periods witnessed an intense discussion of pan-Ottomanism and pan-Islamism as possible sovereignty projects that might save the Ottoman Empire from collapse. On the one hand, the loss of the Balkans lands with their large non-Muslim populations resulted in the ruling elite abandoning pan-Ottomanism in favor of pan-Islamism. On the other hand, pan-Islamism, which aimed to counter Muslim ethnic groups' national awakenings in the Empire's remaining lands by ensuring that Muslim solidarity prevailed among them also resulted in the genocide of non-Muslim groups in the east. However, this project, too, could not save the Ottoman Empire from collapse, and it lost its function with the independence quest of the Muslim-Arab constituents of the Empire during WWI. In this sense, I consider the Constitution of 1921 as the last pluralist move to create an independent state in Anatolia based on Muslim solidarity.

The most important feature of this twenty-three-clause constitution was that it did not put a nationalist emphasis on Turkish ethnic identity and adopted decentralization (*adem-i merkeziyetçilik*) as the new principle of rule. Article 11, for instance, stated that all the provinces in Anatolia would have administrative and legal autonomy in local issues. Accordingly, the regulation and governance of foundations, madrasahs, education, health, economy, agriculture, public works, and social assistance would be under the authorization of city councils – everything except for domestic and foreign policies, including judicial and martial issues and international economic relations (Teşkilat-ı Esasiye Kanunu, 1921). This article was most valuable to Kurds, who, since the 19th century, had suffered from Ottoman centralization policies, because it reassured the 16th century-based *tacit contract* between the Kurds and the state for the provision of the autonomous status of the former (Mardin, 1991, p. 108; Bozarslan, 2004, p. 24).

On the other hand, Ünlü evaluates the Constitution of 1924 as the first crucial document of the Turkishness Contract (Ünlü, 2018, p. 168). Indeed, the Constitution of 1924 symbolizes a definite transition from this pluralist concept of inclusive sovereignty to an exclusive one with an obvious nationalist emphasis on Turkishness. I pursue this transition by comparing the first article of the Constitution of 1921 and the third of the Constitution of 1924. The former stated: "Sovereignty unconditionally belongs to the nation," without any ethnic specification. Nevertheless, the latter article defined the nation through a reasoned decision:

> Our state is a national state. It is not a multinational state. The state does not recognize other nations other than the Turk. There are also people from other races within the nation who should have equal rights and access to the law. However, granting special rights to them in accordance with race is not permissible (Gözübüyük & Sezgin, 1957, p. 7).

This quotation clearly indicates that the founding elites of the newly established nation-state intended to create an ethnically homogeneous Turkish nation even if it necessitated the assimilation of other ethnic groups. As Zürcher points out, there is undeniable continuity between the ideologies of the CUP and Kemalist elites in the Republic era under the influence of French positivism, based on biological determinism and imagination of the nation as a social organism in which internal threats to the homogeneous unity of the nation had to be expelled from society as a tumor would be removed from the body (Zürcher, 2010). However, Kemalist elites found an opportunity to implement this ideology more freely in their independent state. Ruth A. Miller, in her study investigating the legislative reflections of this ideology, argues as follows:

> The decrees instituting new legislation called repeated attention to the importance of uniformity and group identity, they mobilized a vocabulary of biological determinism to play up the ways in which deviant individuals threatened the purity of this group, and they redefined religious and social morality as quasi-medical barriers against these threatening deviations (Miller, 2005, p. 83).

Top-down Turkish modernization based on the Turkishness ethos was harshly implemented by the Kemalist elites' single-party regime from the first years of the Republic to the transition to a

multi-party system in the 1950s. The most severe opponents of this new sovereignty project were Kurds, and the history of the early Republic is indeed marked by a number of Kurdish revolts from the 1920s to the late 1930s: the Sheikh Said Rebellion (1925), the Ağrı Rebellion (1926–1930), and the Dersim Rebellion (1937–1938).[8] These riots that broke out right after the adoption of the Constitution of 1924 show that the Kurds were not satisfied with the new social contract based on the Turkishness myth.

All the revolts were suppressed by the regular army. The Dersim Rebellion was the most harshly suppressed with the use of airpower. Some sources claim that 40,000 people lost their lives, and 3000 families were deported due to these military operations (Jwaideh, 2006, p. 216). Dersim, an area where mostly Alevi Kurds lived, challenged the Turkishness myth based on Sunni Islam twice over with its ethnically divergent Kurdish and religiously divergent Alevi identity, making it inevitable for the Kemalist regime to treat the area like a tumor to be excised from the national body. Indeed, in the Turkish Parliament's opening speech on 1 November 1936, Atatürk stated, "Our most important interior problem is the Dersim problem. No matter what cost, we have to remove this abscess at its roots" (White, 2000, p. 79).

The Kemalist regime's nationalist authoritarian treatment of the Kurdish revolts led to a state of exception rule in northern Kurdistan, the effects of which still remain today. The following section reveals how the law was instrumentalized for northern Kurdistan by extending the limits of contractual violence against Kurds.

2.4.2. Formation of the Village Guard System

The Kemalist elites' most urgent goal was to concentrate the capacity to make violence in a single center. This goal to monopolize violence entailed the dissolution of *çete*s and all other banditry activities with which the founding elites of the Republic had been in close collaboration during the national struggle years. One of the first laws enacted by the Grand National Assembly of Turkey (TBMM: *Türkiye Büyük Millet Meclisi*) for this aim was the Village Law of 18 March 1924, which set out regulations for the formation of the Republican era's first semi-official

[8] For details of the rebellions, see White, 2000; Kahraman, 2004; Jwaideh, 2006.

paramilitary organization through the Village Guard System (Balta Paker & Akça, 2013, pp. 7–8), outlined in Articles 68–82 of the law (Köy Kanunu, 1924).

Article 74 defined the village guards as a local security organization composed of villagers who would carry arms to protect other villagers against gangsters and banditry (*çapulcu ve eşkiya*). According to Articles 69–72, every village had to have one village guard under the village headman's command; however, if the population of a village was more than one thousand, every five hundred people had to have one village guard. The village guards were an armed organization and their weapons were provided by the state (Article 75), and those who opposed the village guards were punished as though they had opposed the gendarmerie (Article 73). As Işık points out:

> However, these village guards were not an armed force like the army or the police, but rather they were formed as auxiliary forces to the gendarmerie units in the local area. Moreover, they seem likely to have been created for intelligence purposes and thus state control; individuals were used by the state as informers, because they knew both the local threats (for intelligence) and the territory (for military operation) (A. Işık, 2020, p. 34).

This quote emphasizes the state's incapacity to maintain its monopoly on violence in the early years of the Republic. Indeed, the village guard system was substantially effective in suppressing the Kurdish revolts and was in force until the late 1930s. Although the law was not officially abolished, the system was terminated as the state consolidated its countrywide gendarmerie network (Balta Paker & Akça, 2013, p. 8). As will be discussed in the next chapter, this system was again brought into force in 1985 against the PKK.

2.4.3. Reform Plan for Eastern Anatolia and the Formation of Inspectorates-General

As mentioned earlier, Article 3 of the 1924 Constitution put the national sovereignty at the Turkish nation's service through reasoned decision. Despite the emphasis on Turkishness, the same decision-making authority had nevertheless accepted that "there are also people from other races within the nation who should have equal rights and access to the law" (Gözübüyük & Sezgin, 1957,

p. 7). However, the process after the first Kurdish revolt (Sheikh Said Rebellion) in 1925 showed that this principle of equality before the law did not include the Kurds.

The instrumentalization of law against the Kurds constituted a state of exception rule in northern Kurdistan that has lasted until the present day. In more specific terms, for northern Kurdistan, 48% of the 97-year Republican history (1923–2020) has passed under a state of exception. In doing this calculation, I consider only the state of exception practices that directly affected northern Kurdistan: the Law of the Maintenance of Order (*Takrir-i Sükun Kanunu*) (1925–1929), the formation of Inspectorates-General (1927–1952), the State of Emergency Law (1987–2002), the Implementation of Temporary or Military Security Zones, and trustee appointments to replace democratically elected mayors in the region (2015–present day). If I add to these practices other countrywide martial law practices (between 1971 and 1987) implemented after military coups, this rate of 48% rises to 64%.

Italian philosopher Giorgio Agamben defines a *state of exception* as a "point of imbalance between public law and political fact" (Agamben, 2005, p. 1). This imbalance originates from all attempts by a state to treat extraordinary political facts – such as war, insurgency, and civil war – at the intersection of its law-making and law-preserving powers that generally result in the recession of the rule *of* law in the face of rule *by* law. Confronted by the first serious threat to its law-preserving power with the Sheikh Said Rebellion, the Turkish state, too, found the solution in creating exceptional governance for the region.

Accordingly, the state first enacted the Law on the Maintenance of Public Order (*Takrir-i Sükun Kanunu*) on 4 March 1925. This three-clause law gave exceptional powers to the state, establishing the Independence Tribunals (*İstiklal Mahkemeleri*) in order to restore public order in the country (Takrir-i Sükun Kanunu, 1925). The Independence Tribunals were first established on 23 April 1920, during the War of Independence, in order to try deserters charged with treason against the national cause (Demirel, 2012, pp. 56–60). However, these tribunals were arguably political rather than judicial as members of the courts were selected from among parliament members regardless of whether they had law degrees.

Furthermore, suspects had no right to defense by a lawyer, and the decision of the courts was final and not open to appeal. Suspects were usually arrested, prosecuted, and executed on the same day

or in the same week (Alkan, 1993, pp. 23–30). The re-establishment of the tribunals, now for trying rebels, was the first institutional materialization of the state policy against non-compliant citizens. Accordingly, those who opposed the Turkishness myth would not be treated equally before the law. The Republic's first Independence Tribunal was thus established in Diyarbakır for trials connected to the Sheikh Said Rebellion, in which the sheikh and forty-five other rebels were hanged on charges of being "motivated by the purpose of setting up an independent Kurdish state" (Jwaideh, 2006, p. 207).

The Law on the Maintenance of Public Order provided short-term order in the region. However, the first Kurdish attack on the newly established state's sovereignty project led the Kemalist elites to establish a longer-lasting new order in northern Kurdistan to assimilate Kurds into the Turkishness myth, namely the Reform Plan for Eastern Anatolia (*Şark Islahat Planı*).

As a first step, Atatürk tasked a council of bureaucrats and military officials, under the chair of Prime Minister İsmet İnönü, on 8 September 1925 to organize investigation trips to eastern Anatolia and prepare a comprehensive, top-secret reform plan for the region (Üngör, 2011, p. 133), presented to the TBMM on 24 September 1925 (Bayrak, 2009, p. 35). This twenty-eight-clause plan (Bayrak, 2009, pp. 125–132), consisting of crucial regulations on administration, resettlement, education, and language issues, was the fundamental document of the state of exception practices that would be continuously applied in northern Kurdistan in the following years.

According to Articles 18, 19, 20, and 21, the state would build governmental buildings, gendarmerie stations, highways, and railways to make northern Kurdistan more accessible to authorities. Articles 5, 9, and 16 regulated the resettlement of the region in ways aimed at Turkification. Accordingly, rebel Kurds living to the east of the Euphrates River would be deported to the west of the river while immigrants from all over the country would be placed to the east of the Euphrates and thus increase the Turkish presence there (Article 9). While the plan permitted those who helped the state during revolt suppression to stay in their places, it aimed at settling Turkish immigrants in areas emptied of Armenians and subsequently settled by Kurds (Article 5). However, the state refused to cover the resettlement costs incurred by the Kurdish population while it met the costs of the Turkish immigrants. Articles 15 and 17 stipulated the Turkification of Kurdish children, particularly girls, through education and the establishment of Turkish Hearths (*Türk Ocakları*), boarding schools, and girls' schools. Article 14 punished those who spoke Kurdish

in Kurdish provinces and district centers, government and municipal offices and other institutions, schools, and shopping and market areas, and infringement would be treated as protesting the government and violating municipal orders. Furthermore, Article 17 strictly prohibited the Kurdish language for those who were deported to the west of the Euphrates.

The plan overtly indicates the assimilationist perspective of the Kemalist elites toward the Kurdish issue. According to its authors, the effective implementation of these policies in the region also entailed the Turkification of the regional administration. Articles 3 and 10 of the plan dealt directly with this administrative issue. Article 3 prohibited local judges from serving in ordinary or martial courts within the region. Besides, Article 10 regulated the appointment of Turkish officials to eastern provinces and prohibited Kurds from serving even in lower-rank offices.

On top of this, the most critical regulation regarding the creation of a state of exception in the region was covered in Article 2, which stipulated that Turkey was divided into five Inspectorates-General with extraordinary authorities. This institution was the prototype of the Governorate of Region in State of Emergency that I will analyze in Chapter 3. On the basis of the Reform Plan for the East, five different Inspectorates-General were established between 1927 and 1952 to consolidate state authority in the provinces where this authority was deemed to be in crisis.[9] Four out of five inspectorates (all except Inspectorate II[10]) were formed in northern Kurdistan. These Inspectorates were regional governorates with quasi-martial authorization over the civilian, military, and judicial institutions within their response area (Koçak, 2003).

The authority of these institutions, I will argue, is best understood when analyzed within the gray zone between the law-making and law-preserving powers of the state. They were created to

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[9] Inspectorate-General I (1927): Diyarbakır, Elazığ, Urfa, Bitlis, Van, Hakkari, Siirt, and Mardin. Inspectorate-General II (1934): Edirne, Kırklareli, Tekirdağ, and Çanakkale. Inspectorate-General III (1935): Erzurum, Kars, Gümüşhane, Çoruh, Erzincan, Trabzon, and Ağrı. Inspectorate-General IV (1936): Tunceli, Elazığ, and Bingöl. Inspectorate-General V (1947): İçel, Seyhan, Hatay, Gaziantep, and Maraş (Koçak, 2003).

[10] Inspectorate-General II was set up in the Thrace region to solve the security problems caused by settlement problems of Muslim refugees who were flocking from the Balkans to Turkey. Security problems in the region later led to the Thrace pogroms motivated by anti-Semitism against Jewish citizens of Turkey between June and July 1934 (E. Ç. Bulut, 2015).

preserve the recently established order of the state, but at the same time, they had extraordinary law-making capacity to maintain the order against every type of security concern. The emphasis on ensuring order and security was also covered in Article 3 of the Law on the Establishment of the Inspectorates-General (*Umumi Müfettişlik Teşkiline Dair Kanun*), stating that Inspectorates-General were to consolidate public order and security within their areas (Umumî Müfettişlik Teşkiline Dair Kanun, 1927). According to Article 1 of the same law, the responsible authority for the formation and abolition of Inspectorates was the council of ministries.

Under the authority of this law, Decree 5858 on the Formation of Inspectorates-General (*5858 sayılı Umumi Müfettişlik Teşkiline Dair Olan 1164 Numaralı Kanun Mücibince Tanzim Olunan Umumi Müfettişlik Vazife ve Salahiyetlerine Dair Olan Talimatnamenin Meriyete Vazı Hakkında Kararname*) was approved on 27 November 1927, granting authority to Inspectorates-General over the governors within the authorized provinces in Article 7 (Koçak, 2003, pp. 72–74). As detailed in Article 8, the Inspectorates-General had full power to order governors to act in all necessary matters (Koçak, 2003, p. 75). They also had absolute control over security forces (police and gendarmerie) within the authorized region (Koçak, 2003, p. 75).

As such, the establishment of Inspectorates-General was a clear indication of the "point of imbalance between public law and political fact," as Agamben formulates it. Security threats (e.g., Kurdish uprisings in the east) to the recently established authority of the Kemalist elites created a political fact to be treated *outside* ordinary public law. If the prescription for this treatment was the Reform Plan for the East, its implementation was largely realized by the Inspectorates-General. Hence, although not included in the 1924 Constitution, Inspectorates-General was created to establish public order and security with extraordinary powers over governors and security forces outside the ordinary bureaucratic functioning of the state. For this reason, I argue that the Inspectorates-General constituted the first dual-state administrative practice of the Turkish state in Republican history.

Based on his observations on the Nazi regime, Ernst Fraenkel defines the *dual state* in light of two distinct characteristics of the state: *normative* and *prerogative*. In the normative state, the rule *of* law is superior to the administrative and judicial bureaucracy; however, the rule *of* law is suspended against those deemed enemies of the state in the prerogative state in which the governmental system exercises "unlimited arbitrariness and violence unchecked by any legal guarantees" (Fraenkel,

2017, p. lxii). In this sense, the dual state does not create a replacement relationship between the normative state and the prerogative state; both exist simultaneously within the dual state, as seen in the example of the Inspectorates-General. The state continued its normal bureaucratic and judicial functioning outside inspectorate provinces, whereas it created an extraordinary bureaucratic and legal order within the inspectorate zones, which extended the boundaries of the contractual violence between the state and society.

I now turn to an examination of the prerogative characteristic of the Turkish state in terms of contractual violence during the Ağrı Rebellion and in light of Law No. 1850 enacted on 20 July 1931. The law basically stated that acts committed in the rebellion zone would not be considered crimes:

> Actions of watchmen, village guards, militia, and the *local people* [*emphasis is mine, Ed.*] who participated in the suppression movement of the rebellion along with military forces and governmental officials between 20 June 1930 and 1 December 1930 shall not be considered a crime.[11]

The same article (Article 1) also stated that the law was only valid for the region from Erciş, Zilan, and Mount Ağrı, where the rebellion broke out, to the Pülümür district of Erzincan under the authority of Inspectorate-General I, where some pursuits and suppression took place. This law is a clear indication of how contractual violence took shape between the state and watchmen, village guards, militia, and, most importantly, local people under the state's impunity guarantee. Although this was a law under the domain of the normative state, it in fact contradicted one of the most basic principles of law, namely the non-retroactivity of law. Law No. 1850 was, in essence, retroactive. Although accepted in July 1931, it provided legal protection for acts from June 1930 to December

[11] Birinci Madde: "Erciş, Zilân, Ağrıdağ havalisinde vuku bulan isyanla, bunu müteakip birinci umumî müfettişlik mıntakası ve Erzincanın Pülümür kazası dahilinde yapılan takip ve tedip hareketleri münasebetlerile 20 Haziran 1930 dan l Kânunuevvel 1930 tarihine kadar askerî kuvvetler ve Devlet memurları ve bunlarla birlikte hareket eden bekçi, korucu, milis ve ahali tarafından isyanın ve bu isyanla alâkadar vakaların tenkili emrinde gerek müstakillen ve gerek müştereken işlenmiş efal ve harekât suç sayılmaz" (İsyan Mıntıkasında Işlenen Ef'alin Suç Sayılmayacağına Dair Kanun, 1931).

1930. That is to say, the state retroactively approved all types of violence by officials and civilians in a contractual manner.

Indeed, it is well known that the suppression operation exceeded its purposes and was directed against innocent civilians (Kahraman, 2004, pp. 226–248). For instance, while the number of rebels was estimated at 10,000, some 15,000 deaths were declared in the Zilan region by the semi-official newspaper of the government, *Cumhuriyet* underlining the extent to which civilians suffered most. Also, both witness and perpetrator accounts of the period reveal that many villages were set on fire and plundered (Kahraman, 2004, pp. 237–248). Historian Wadie Jwaideh argues that the state suppression was to be understood as brutal, collective punishment of whole communities in the region, whether rebel or not (Jwaideh, 2006, p. 213).

The retroactive enactment of Law No. 1850, in this case, shows how by "resetting" criminal records, the state affirmed its relationship with elements in society committing crimes against those outside of the Turkishness Contract. As I will discuss in this thesis, the renewal of this affirmative relationship many times throughout Republican history facilitated the paramilitarization of the state.

2.5. 1952–1980: The Consolidation of the Deep State in Turkey

The final part of this chapter concentrates on the consolidation of autocratic cliques within the Turkish deep state structure. I begin with the establishment of the Special Warfare Department (ÖHD: *Özel Harp Dairesi*) in 1952 and end in 1980, when the escalating political violence between far-right and far-left groups resulted in a military coup. The two most important contextual features of this period were the crystallization of the conflict between military and democracy elites in the domestic sphere after the adoption of multi-party life in the 1950s and the construction of a bi-polar world order between the USA and the USSR due to the Cold War following WWII in the international arena.

As discussed earlier, the priority of the state in the early years of the Republic was to consolidate its monopoly on violence against all possible security threats. This aim was largely realized with the fusion of the state's legislative and executive powers under the CHP-led single-party regime. The

principle of unity of powers was clearly stated in Article 5 of the 1924 Constitution: "The legislative power and executive power are under the domain of the Grand National Assembly."[12] While the legislative power belonged to the TBMM, the executive power of the parliament was shared mutually between the president, the prime minister appointed by the president, and the council of ministers formed by the prime minister. Although the TBMM had the power to control and dissolve the government, the latter did not have the power to dissolve the parliament. President Atatürk was also the chairman of the CHP for the remainder of his life.

With military backgrounds, the two most significant figures of the national struggle days, Atatürk and Prime Minister İsmet İnönü, dealt with many problems threatening the law-preserving power of the state by means of military management models with law-making implications. All of the *ancient regime* practices that led to a *dual state* structure – the Independence Tribunals, Village Guard System, Reform Plan for Eastern Anatolia, and Inspectorates-General – in fact reflected this military reason. As Ali Bayramoğlu states:

> The actual powers of the national struggle have been replaced by institutional power, the autonomous area of the army within the state has been expanded, and this area has been closed to all kinds of external political influence through the process of centralization [*of the army*] (Bayramoğlu, 2004, p. 73).

The TSK established its centralization through the guardianship of Kemalist principles as the founding values of the state. The protector role also provided the army with autonomy from politics through its "institutional *raison d'etre*" to preserve the state's "integrity, unity, and modernity" (Sakallioğlu, 1997, p. 153). Modernity here is meant to be a westernized and secular state structure in which religion and state affairs are separated. Indeed, claiming the integrity, unity, and secularity of the state to be in crisis, the army has interrupted the democratic process in Turkey many times by military interventions – the 1960 coup d'état, 1971 military memorandum, 1980 coup d'état, 1997 military memorandum, and 2007 e-memorandum, respectively (S. Aydın & Taşkın, 2014). The 1960 and 1980 coups resulted in the enactment of new constitutions and the expansion of the

[12] Madde 5: "Teşri salâhiyeti ve icra kudreti Büyük Millet Meclisinde tecelli ve temerküz eder" (Teşkilat-ı Esasiye Kanunu, 1924).

institutional autonomy of the TSK. This autonomy was institutionalized financially, politically, and judicially in the 1960s following the first military coup.

First, financial autonomy was provided in 1961 by way of an Armed Forces Mutual Trust and Pension Fund (OYAK: *Ordu Yardımlaşma Kurumu*), which was a military holding subject to Special Law No. 205, unlike any other business corporation in Turkey (Parla, 1998, p. 29). The Special Law attached OYAK to the Ministry of National Defense and made it exempt from corporation, income, sales, excise, and stamp taxes, thus in effect granting OYAK administrative and financial autonomy (Parla, 1998, p. 32). Apart from its original function as a supplementary occupational pension fund for its members independently from the Social Security Institution, the holding's other services included death and disability benefits and provision of personal and home loans (Parla, 1998, p. 30; Akça, 2010, p. 9). As Söyler underlines, OYAK "ranked among the five largest holdings in Turkey through the distribution of low-interest rate credits, subventions, and privileges in state procurement projects" (Söyler, 2015, p. 114).

Second, political autonomy was granted by the establishment of the National Security Council (MGK: *Milli Güvenlik Kurulu*) in 1962. The MGK was founded to bolster the TSK's role as the guarantor of national security. It was composed of "the President, as the chair, vice presidents, ministers of Justice, National Defense, the Interior and Foreign Affairs, the Chief of General Staff of the Turkish Armed Forces, commanders of the Turkish Land, Naval and Air Forces" (Secretariat-General of the National Security Council, 2018). The Council meets every two months to discuss internal and external security, and its decisions are placed on the agenda of the Council of Ministers. The MGK periodically redefines the internal and external threats (e.g., ethnic and religious groups and/or organizations) in the top-secret National Security Policy Document (*Milli Güvenlik Siyaset Belgesi*, or the Red Book) (Şarlak, 2010, p. 97). Hence, rather than a forum for the exchange of ideas between civilian and military wings of the state, the MGK instead institutionalizes the TSK's influence over politics.

Third and finally, the judicial autonomy of the army can be traced back to the creation of military courts in 1930 (Kardaş, 2006, p. 51). Following the military coup in 1960, the military judiciary was redesigned in 1963. Although military courts have the duty to try personnel for offenses committed in relation to military service and duties, the regulation in 1963, based on Article 11 of the Law on the Establishment and Trial Procedures of Military Courts No. 353, expanded its

authority to include civilians committing crimes in military areas or preventing soldiers from performing their duties (Askeri Mahkemeler Kuruluşu ve Yargılama Usulü Hakkında Kanun, 1963). Article 2 of the Military Criminal Code paved the way for military personnel's trials in civil courts for the prosecution of non-military crimes (Askeri Ceza Kanunu, 1930). However, the lack of any definition of military crimes in the Code renders the military judges' independence and impartiality disputable (Kardaş, 2006, p. 52). As I will detail in Chapter 7 through the case of the JİTEM trials, this judicial autonomy of the army in defining "military crimes" has arguably been the biggest obstacle to many trials in which Turkish military officials are suspected of serious human rights violations.

The intimately interconnected relationship between the national security perception and military autonomy was consolidated by the military interventions at the sacrifice of the development of democracy in the country. Based on the dual state dichotomy of Ola Tunander between a democratic state and deep state (Tunander, 2009), Işık explains the impact of the army on democracy in Turkey:

> Basically, the state developed into a dual structure, with on the one hand an elected government and a parliamentary system based on regular elections between a plurality of parties (the legal state), yet on the other hand, most of the actual power residing with the leadership of the army, which also included the leadership of the intelligence service and large parts of the state bureaucracy. This was called a 'deep state', and allegedly had control over the elected government (A. Işık, 2020, p. 38).

Fraenkel's dual state distinction between *normative* and *prerogative* states appears in Işık's analysis as the distinction between *legal* and *deep state*s. Still, there is a difference in nuance between Fraenkel and Işık's definitions. On the one hand, the distinction in Fraenkel's definition refers to the coexistence of ordinary and extraordinary functions of the state in legal terms. On the other hand, the distinction in Işık's definition denotes the capacity and contradiction of official and unofficial actors to have power in the functions of the state, regardless of ordinary and extraordinary conditions. Hence, I argue that two crucial parameters make the deep state prerogative outside regular legal norms in Turkey. As I have exemplified throughout this chapter, the first is the relaxation of the normative rules of the state over some individuals by granting impunity guarantees

in the name of national security; the second is the normalization of the state of exception practices in a societal mindset if not necessarily in rule.

The Cold War (1947–1991) was critically important in the consolidation of the deep state in Turkey. Those were years in which national security strategies and *new war* tactics underwent continuous development not only in Turkey but also in the rest of the world (Ware, 1988; Shultz, 1991; Grandin & Joseph, 2010; Gates & Roy, 2014). As I summarized in Chapter 1, siding with the Western Bloc during the Cold War, Turkey came under the policy of NATO and its Operation Gladio strategy. The Turkish clandestine army of Operation Gladio against left-wing opposition groups was the ÖHD-led *Kontrgerilla* (Counterguerrilla). Operation Gladio researcher Daniele Ganser, based on a US Army General Staff top-secret original strategy document dated 28 March 1949, underlines that pan-Turkism was used as an influential ideology in the creation of the *Kontrgerilla* army in Turkey:

> In an adjoining document, JSPC 891/6, section 'Tab B', a specific reference is made to Turkey, highlighting how the Pan-Turkism movement could be exploited strategically by the United States. Turkey, according to the Pentagon document, is an 'extremely favourable territory for the establishment of both guerrilla units and Secret Army Reserves. Politically the Turks are strongly nationalistic and anti-Communistic, and the presence of the Red Army in Turks will cause national feeling to run high' (Ganser, 2005, p. 226).

What follows is an account of the paramilitary formation of the *Kontrgerilla* in Turkey under the Special Warfare Department.

2.5.1. Formation of *Kontrgerilla*

Kontrgerilla was actually the name given to people employed to silence opposition groups utilizing irregular warfare tactics. The *Kontrgerilla* force, with its civilian and military wings, was first organized under the NATO establishment Mobilization Research Council (STK: *Seferberlik Tetkik Kurulu*) in the capital of Ankara in 1952. The Council, which changed its name to the Special Warfare Department (ÖHD: *Özel Harp Dairesi*) in 1965, was officially attached to the General Staff and financially supported by the CIA organization Joint US Military Mission to Aid to Turkey

(JUSMMAT: *Türkiye'ye Yardım için Ortak ABD Askeri Kurulu*) (Kılıç, 2010). Although it was a unit of the General Staff, the government learned about the ÖHD's existence in 1974. Then-Prime Minister Bülent Ecevit explained how he became aware of the ÖHD in a newspaper interview on 28 November 1990:

> During my prime ministry in 1974, the then Chief of General Staff, General Semih Sancar, asked the prime ministry's discretionary fund for a few million for an urgent need. The amount requested from me was close to all the money in the discretionary allowance. I had to ask the General Staff for what purpose this money was requested. 'We want it for the Special Warfare Department,' they responded. I had not even heard of such an official office until then. I asked, 'Where were the expenses of this department covered from until now?' I have been informed that the United States had covered all the expenses of the Department with a covered fund until then, but the General Staff had to ask for money from the Prime Ministry's discretionary allowance because the USA has stopped its financial support.[13]

This quote clearly reveals the dual functioning of the Turkish state in favor of the deep state. While the elected government was unaware of the ÖHD, the army maintained its autonomy within the state by organizing the *Kontrgerilla* force with the support of the CIA. Numerous works of journalists have alleged that the relationship between the ÖHD and the CIA played a key role in military coups in Turkey (Çelik, 1994; Arcayürek, 2003; Kılıç, 2010). According to reporter Serdar Çelik, "The most important actions of the Special Warfare Department were the three military coups" (Çelik, 1994). This allegation also appeared in the report of the TBMM Commission for Investigating Military Coups in 2012, according to which Turkish officers who had been sent to the

[13] "1974'teki başbakanlığım sırasında, zamanın Genelkurmay Başkanı rahmetli Orgeneral Semih Sancar başbakanlığın örtülü ödeneğinden acil bir ihtiyaç için birkaç milyon istedi. Benden istenen miktar örtülü ödenekteki paranın tümüne yakındı... Genelkurmay'dan bu paranın ne amaçla istendiğini sormak zorunda kaldım. 'Özel Harp Dairesi için istiyoruz' yanıtı geldi. Öyle bir resmi dairenin o zamana kadar adını bile duymamıştım... 'Şimdiye kadar bu dairenin giderleri nereden karşılanıyordu' diye sordum. O zamana kadar dairenin tüm giderlerini bir gizli ödenekle ABD'nin karşıladığı; ancak artık ABD'nin bu parasal katkıyı kestiği, o nedenle Başbakanlık'ın örtülü ödeneğinden para istemek zorunda kalındığı bana bildirildi" (Milliyet, 1990).

USA for training in irregular warfare in the late 1940s later played key roles in the establishment of the ÖHD and the 1960 Coup (Türkiye Büyük Millet Meclisi, 2012, p. 928).

The elected government's unawareness about the ÖHD was evidence of the military autonomy within the state functioning. This autonomy then ensured the consolidation of the deep state structure through the collaboration among the autocratic cliques of the 1950s: the STK, later the ÖHD, and the National Security Service (MEH), later named the National Intelligence Organization (MİT). The STK was a semi-official paramilitary organization established by a National Defense Supreme Council within the General Staff (Türkiye Büyük Millet Meclisi, 2012, p. 115). Its office was located in the same building as JUSMMAT under the second chief of the General Staff in the Bahçelievler district of Ankara (Çelik, 1994; A. Işık, 2020, p. 40).

In another newspaper interview in 1990, Ecevit explained that the purpose of the organization was "to use guerilla methods and all possible underground activities to bring an end to the occupation in the case of a communist occupation or rebellion" (Cumhuriyet, 1990). Retired Lieutenant Colonel Talat Turhan wrote in his memoirs that the organization mainly benefitted from a Turkish translation of the US Army's Field Manuals No. 31-15 (titled Operations Against Irregular Forces) and No. 31-16 (titled Counterguerrilla Operations) in its irregular warfare training (Turhan, 1994, p. 19). FM No. 31-15 describes the auxiliary forces to a military unit in counterguerrilla operations like "civil police, paramilitary units, and local individuals who are sympathetic to the friendly cause" (Department of the Army, 1961, p. 34). FM No. 31-16 defines the mission of counterguerrilla operations as being "to subvert, kill, or capture the enemy guerilla force and prevent the resurgence of the resistance movement" (Department of the Army, 1963, p. 20).

The paramilitary network among military officials, patriot civilians, and organized crime leaders established by the STK (or ÖHD) worked efficiently against minority and left-wing opposition groups, especially in the 1970s. The military wing of the *Kontrgerilla* force consisted of a military cadre who had been sent to the USA in 1948 after the end of WWII so as to specialize in irregular warfare against the communist threat (Kılıç, 2010, pp. 47–49). Among them was Captain Alparslan Türkeş, whose ultra-nationalist ideology corresponded to the pan-Turkism emphasis within the US Army General Staff document discussed earlier. Türkeş was the contact person of the German Nazi Party in Turkey during the WWII years and the founder of the Nationalist Movement Party (MHP: *Milliyetçi Hareket Partisi*) in 1969 (Ganser, 2005, pp. 225–226). Meanwhile, Colonel Daniş

Karabelen's (para)military career can be traced back to the Ottoman period and the *Teşkilat-ı Mahsusa* and *Karakol* Society (A. Işık, 2020, p. 40). This US-trained cadre then organized the civilian wing of the *Kontrgerilla* force, also known as "White Forces," consisting of "patriots" from different professions (Söyler, 2015, p. 101).

According to the 2012 TBMM Commission report, the White Forces consisted of thousands of people scattered across the country (Türkiye Büyük Millet Meclisi, 2012, p. 116) as the reserve paramilitary force of the *Kontrgerilla* (Kılıç, 2010, pp. 183–236; Türkiye Büyük Millet Meclisi, 2012, p. 116; A. Işık, 2020, p. 48). In line with the US pan-Turkism emphasis, these civilian cadres were mostly recruited from nationalist circles. Among them, the most critical human resource was the youth wing of Türkeş's MHP, known officially as Idealist Hearths (*Ülkü Ocakları*) or unofficially as the Grey Wolves (*Bozkurtlar*), which itself became an informal paramilitary organization in the 1970s. According to the account of a former Grey Wolf, Oğuzhan Cengiz, there were thirty-four Grey Wolf commando training camps in Turkey between 1968 and 1978, offering nationalist indoctrination, martial arts (e.g., judo, karate), and training in military tactics and weapons handling (Aydın, 2010). Some members like Alaattin Çakıcı and Abdullah Çatlı then became organized crime leaders but were employed by the ÖHD and MİT in numerous state operations. Söyler likens the relationship between the state and "modern gangs" to the collaboration between the CUP and gangs in Ottoman times:

> […] as the Ottoman state fabricated banditry for state consolidation, the Turkish state fabricated banditry by recruiting "modern gangs" in the late 1960s. […] These "modern bandits", Gray Wolves, in the service of the state engaged in gradually escalating political violence with the leftist opposition (Söyler, 2015, p. 199).

One of the STK's first activities was to organize the so-called İstanbul Pogrom against the non-Muslim and particularly Greek population of İstanbul on 6–7 September 1955. Provoked by deteriorating Greek-Turkic relationships in Cyprus and the false rumor that Greeks had bombed Atatürk's house in Thessaloniki (where he was born), mobilized nationalist masses damaged thousands of properties, raped hundreds of women, and killed 15 people over two days (Güven, 2011, p. 5). The STK chairperson of that time, retired General Sabri Yirmibeşoğlu, indeed admitted in the following years that the İstanbul Pogrom was a successful operation of the Department (Danyıldız, 2020). Another STK activity related to the Cyprus issue was a paramilitary group called

the Turkish Resistance Organization (TMT: *Türk Mukavemet Teşkilatı*), organized in 1958 against the Cypriot nationalist guerrilla EOKA (Aydın & Taşkın, 2014, p. 75).

Continuing its paramilitary activities in Cyprus until the Turkish invasion in 1974, the STK/ÖHD was also active in anti-minority and anti-communist operations within Turkey, particularly as clashes between right-wing and left-wing groups escalated in the 1970s. Some of the ÖHD's covert operations in this period included the massacres of Kızıldere (1972) and Bahçelievler (1978) against leftist youth, the massacre on Taksim Square (1977) against leftist demonstrators who gathered for the 1st of May celebration, the massacre of Kahramanmaraş (1978) against Alevis, and the assassinations of the vice public prosecutor of Ankara, Doğan Öz (1978), and journalist Abdi İpekçi (1979) (Söyler, 2013, p. 316).

Numerous politicians and state reports alleged that these operations were covertly carried out by the ÖHD; however, the majority of these events are still not fully investigated, nor have perpetrators been penalized (Akçura, 2009, pp. 25–34; Altınbaş, 2010; Türkiye Büyük Millet Meclisi, 2012). According to the accounts within the above-referenced sources, these operations were actually carried out through the close cooperation of the ÖHD and MİT and the collaboration of ultra-nationalist civilian elements and organized crime chiefs. As Üngör highlights, "Whereas Turkish *elected* officials from the left, center, and right all acknowledged that the ÖHD was responsible for many unsolved murders in the post-1950s, they also claimed to have been powerless in counteracting or curbing its activities" (Üngör, 2020, p. 41). The elected officials' impotence against the *Kontrgerilla* network shows that deep state actors rather than democratically elected ones were quite powerful within the state in those years.

Following the end of the Cold War, the 1990s saw many revelations emerge regarding the secret activities of Operation Gladio within NATO countries (Ganser, 2005). As a result of the popular reaction to these organizations' bloody covert operations and the removal of the Communist threat due to the collapse of the USSR, the majority of the countries announced that these stay-behind armies were to be abolished – except for Turkey.

Kontrgerilla operations and especially the 1980 military coup largely weakened the left-wing circles in Turkey. However, the communist threat was replaced by the Kurdish question, which brought the Turkishness ethos into a new crisis as the PKK ignited a new armed Kurdish rebellion

against the state on 15 August 1984. In this situation, Turkey transformed the ÖHD into the semi-official Special Forces Command (ÖKK: *Özel Kuvvetler Komutanlığı*) in 1992, which also meant the transformation of the deep state into the state, as Söyler claims (Söyler, 2015, p. 144). Işık explains this transformation with the *paramilitarization of the state* focusing on the reorganization of paramilitary forces within army and law enforcement bodies (police, gendarmerie) between 1991 and 1996 in accordance with the state's newly adopted LIC doctrine (A. Işık, 2020, pp. 85–110). In Chapter 3, I will discuss this transformation as the reorganization of paramilitary violence with its all contractual and organizational dynamics.

2.6. Discussion

This chapter has explored the legal origins of and continuity in paramilitary violence in Turkey in a period covering almost a century (1890–1980). In order to facilitate the analysis of this long period, this chapter has probed four main periods (1891–1913, 1914–1923, 1924–1952, 1952–1980), each distinguished by specific features, based on two interrelated analytical paths.

First, I discussed the paramilitary origins of the state in relation to the reasons behind their formations. In doing so, I utilized certain legal documents (e.g., the Laws on the Formation of the Hamidiye Cavalry Regiments, Internal Regulations of the CUP for the formation of *Fedai* Branches, Village Law for the Formation of the Village Guard System) to explore the reasons behind the establishment of paramilitary groups and their informal or semiformal proximity to the state.

Second, I investigated the modern nation-state formation from the Ottoman Empire to the Republic of Turkey by analyzing a dual state structure existing between the rule *of* law and rule *by* law practices of the state. As the analysis has revealed, a prerogative state approach dominated Turkish policy, producing exceptional legalities and institutions (e.g., Independence Tribunals, Reform Plan for Eastern Anatolia, Inspectorates-General) while contributing to the consolidation of a deep state structure in Turkey through the institutionalization of a clandestine network (among executive and military wings of the state, criminals, and patriot civilians) within the state (e.g., *Teşkilat-ı Mahsusa*, *Özel Harp Dairesi*). The analysis also indicated that the prerogative state approach caused the paramilitarization of the state by granting criminals, militia, and local people impunity (e.g., the Amnesty Laws of 1914 and 1916, Law No. 1850) to

encourage their participation in state violence. I have interpreted this phenomenon through the notion of contractual violence.

On the one hand, the state's weak capacity for maintaining a monopoly on violence proved conducive for the emergence of paramilitary violence in the first two periods (1891–1913, 1914–1923). During these periods, the main agenda was to save the Empire from collapse and the primary hegemony projects, pan-Islamism and partly pan-Turkism, were the keys to the ruling elite propaganda aimed at establishing and inciting the Hamidiye Regiments, *Fedai* Branches, and *Teşkilat-ı Mahsusa* against political opposition and non-Muslim constituents of the Empire. On the other hand, an exclusivist and assimilationist state ideology was effective in the formation of paramilitary violence in the last two periods (1924–1952, 1952–1980). The main agenda in these periods was to establish and consolidate the law-making and law-preserving powers of the state against every type of threat against the *unity*, *integrity*, and *modernity* of the state.

Such a threat appeared in the form of Kurdish uprisings in the first period (1924–1952) of the Republican era when the newly established state gave up pan-Islamism by abolishing the caliphate in 1924 and, most importantly, adopting a top-down Turkishness myth as the new hegemony project through the Constitution of 1924. In order to consolidate its monopoly on violence across the country, the state applied a military management model (e.g., Independence Tribunals, Reform Plan for Eastern Anatolia, and Inspectorates-General) also benefitting from the auxiliary support of the civilians (e.g., Village Guard System, Law No. 1850) who would suppress the uprisings. The last period (1952–1980) witnessed the consolidation of the deep state structure in Turkey under the pretext of fighting communism in the context of the Cold War. While the financial, political, and judicial autonomy of the army as the "eternal guardian" of the state's Kemalist values was strengthened by military interventions (and with the establishments of OYAK, the MGK, and military courts), the army also used its autonomy to organize anti-communist and anti-minority paramilitary violence under the ÖHD – beyond the oversight and control of elected government authorities.

I have also shown in this chapter that there was, in fact, an interconnectedness between these four periods in terms of the formation and institutionalization of paramilitary violence. For example, the origins of the Village Guard System in 1924 could be traced to the Hamidiye Regiments in the 1890s. Both organizations were useful for the state for obtaining local

knowledge and influencing local affairs. Furthermore, informal *fedai*s of the CUP party then turned into semi-official *Teşkilat-ı Mahsusa* militias under the CUP government. The clandestine network of the TM between the state, gangs, and "patriot" volunteers was also re-established under the ÖHD authority after 1952. It is even possible to trace this continuity from actor biographies. As Işık highlights:

> These similarities and continuities are perhaps best symbolised by the commander of the Turkish army, Daniş Karabelen. He was trained by the *Teşkilat-ı Mahsusa* in 1917 and worked with the subsequent paramilitary, *Karakol Cemiyeti*, during 1918-20, before finally, in 1952, becoming the first commander of the ÖHD, the main paramilitary force of the Turkish army (A. Işık, 2020, p. 51).

Finally, I argue that it is also possible – apart from the organizational and institutional similarities and continuities – to trace continuities in impunity-granting legal practices. Accordingly, the contractual violence between the state and society was renewed many times through the tacit impunity given to the Hamidiye Regiments and *Fedai* Branches, and the explicit impunity given to *Teşkilat-ı Mahsusa* militias and ordinary people with the Amnesty Laws and Law No. 1850.

The next chapter will explore how the legal origins of paramilitary violence transformed into a legacy in Turkey in the post-1980 period, with a specific focus on JİTEM.

3. Reorganization of Paramilitary Violence in Northern Kurdistan: Military Autonomy, Counterinsurgency and JİTEM

3.1. Introduction

Chapter 2 has laid out the origins of paramilitary violence and its relationship with the state in Turkish history. It did so by looking at how this relationship was legally designed between the state and society and how various actors navigated the legal and deep state structures. This chapter continues from where the previous chapter left off with the addition of the 1980s and 1990s in order to show that resorting to paramilitary violence and adopting this dual state structure is not an exceptional situation in modern Turkish history but rather the reflection of a legacy in the state's *raison d'état*.

Three factors that strengthened the dual state structure in the post-1980 period were: 1) the empowerment of the military autonomy within the state with the enforcement of a new constitution after the 1980 coup, 2) the formation of a defective democracy among coalition governments under the military tutelage, and 3) the shift in the perception of the internal threat from the global communism concern to the regional PKK threat with the outbreak of the PKK's first armed attacks against the TSK in 1984.

These factors contributing to the consolidation of the prerogative state approach have led to the increase of the *autonomous power* of the state and the strengthening of a *security state* understanding in the state's operating principles. Here, I will analyze these two main dynamics of the post-1980 process with Michael Mann's and Bryan Mabee's theoretical approaches.

First, in his article investigating the origins, mechanisms, and results of the *autonomous power* of the state, Mann treats *state* as an arena where ideological, economic, and military issues are always in negotiation between state elites and civil society groups (Mann, 1984). As I showed in Chapter 2, it was the army who seized this arena in Turkey by promoting itself as the guard of Kemalist foundational principles of the country in the ideological field; with the establishment of OYAK in

the economic field; with the creation of the MGK in the political field, and with the formation of Janus-headed judiciary between civil and military courts in the judicial field.

In this regard, Mann distinguishes between *infrastructural power* and *despotic power* as two mechanisms of state power adjusting state and society relations to "provide a *territorially-centralised* form of organization" in the state (Mann, 1984, p. 185). While he refers to "the capacity of the state to actually penetrate civil society, and to implement logistically political decisions throughout the realm" as *infrastructural power*, he defines *despotic power* with the "autonomy of power" (Mann, 1984, p. 189). This chapter will show how the autonomy of military power in the state arena caused an increase in the despotic power of the state in northern Kurdistan, where its infrastructural power was in crisis due to PKK violence.

Second, Mabee defines the *security state* as "a particular configuration of state-society security relationships […] where the state increased its power over society" (Mabee, 2009, p. 14). Indeed, the post-1980 process witnessed the ascendance of the security state concept around the national security policies of the army and the influence of these policies over politics and society. In this chapter, I will trace this ascendancy in relation to the state's counterinsurgency (COIN) strategies against PKK violence, bearing in mind the previously discussed historical and legal legacies of Chapter 2. I will then examine how the dual state structure and paramilitary violence supported each other during the 1980s and 1990s, focusing on the informal formation of JİTEM as a death squad. Before doing so, I will first provide a general overview of the post-1980s in terms of military, Turkish domestic politics, and PKK violence.

3.1.1. Expansion of Military Autonomy in the Post-1980 Period

At 03.00 am on 12 September 1980, the TSK, headed by Chief of the General Staff Kenan Evren, staged a coup to put an end to increasing political violence between leftist and rightist militia groups (S. Aydın & Taşkın, 2014, p. 326). The subsequent military direct rule that lasted until 1983 caused the settlement of the security state understanding in the country with the enforcement of a new constitution in 1982, which is still in force despite some modifications in the following years. Crucially, the 1982 Constitution strengthened the already-established military autonomy – provided with the 1960 and 1971 interventions – in the political and judicial realms. This section will explain how the military autonomy expanded to civil politics and the judiciary in the post-1980 process

with the institutional examples of the National Security Council (MGK: *Milli Güvenlik Kurulu*) and State Security Courts (DGMs: *Devlet Güvenlik Mahkemeleri*).

The military influence over politics was widely provided with the continuous expansion of the MGK's duties and authorities from the 1960s to the 1980s. As discussed in Chapter 2, the MGK was established as a constitutional institution in 1962 following the first military coup on 27 May 1960. Article 111 of the 1961 Constitution defined MGK members as "the Ministers provided by law, the Chief of the General Staff, and representatives of the armed forces" and the MGK's institutional mission as being an advisory body to pass "the requisite fundamental recommendations to the Council of Ministers with the purpose of assisting in the making of decisions related to national security and coordination" (Constitution of the Turkish Republic, 1961).

The Council's members and mission were clarified more with the amendments of 20 September 1971 following the military memorandum on 12 March 1971. Accordingly, the amendment on Article 111 replaced the ambiguous statement of the "representatives of the armed forces" by the "commanding officers of the army" and reformulated the assisting mission of the Council with a stronger recommendation emphasis: "The National Security Council recommends the requisite fundamental opinions to the Council of Ministers in the making of decisions related to national security and coordination."[14]

However, the MGK gained its most detailed description in terms of its members and mission with the 1982 Constitution. Article 118 explicitly named the MGK members as "the Prime Minister, the Chief of the General Staff, the Ministers of National Defence, Internal Affairs, and Foreign Affairs, the Commanders of the Army, Navy, and the Air Force, and the General Commander of the Gendarmerie, under the chairmanship of the President of the Republic" and stated the mission of the MGK as follows:

[14] Madde 111: "Millî Güvenlik Kurulu, millî güvenlik ile ilgili kararların alınmasında ve koordinasyonun sağlanmasında gerekli temel görüşleri Bakanlar Kuruluna tavsiye eder" (Türkiye Cumhuriyeti Anayasasının Bazı Maddelerinin Değiştirilmesi ve Geçici Maddeler Eklenmesi Hakkında Anayasa Değişikliği, 1971).

> The National Security Council shall submit to the Council of Ministers its views on taking decisions and ensuring necessary coordination with regard to the formulation, establishment, and implementation of the national security policy of the State. The Council of Ministers shall give *priority consideration to the decisions of the National Security Council* [emphasis is mine] concerning the measures that it deems necessary for the preservation of the existence and independence of the State, the integrity and indivisibility of the country, and the peace and security of society (Constitution of the Republic of Turkey, 1982).

Thus, the Constitution of 1982 transformed – and strengthened politically– the MGK's[15] position from being an advisory body to a more powerful institution that directly influences the Council of Ministers with the emphasis on the MGK decisions requiring "priority consideration" in Article 118. Therefore, the MGK became "a *de facto* higher cabinet in charge of setting the government's agenda, directing sensitive policy matters, and surveying the conduct of the civilian cabinet," as Turkuler Isiksel points out in her article analyzing the authoritarian constitutionalism tradition of Turkey (Isiksel, 2013, p. 717).

The MGK was not the only mechanism for the army to monitor civil governance. Indeed, the 1982 Constitution provided the army with many powers, such as holding seats on the boards of the Higher Education Council (YÖK: *Yükseköğretim Kurulu*) and the Radio and Television Supreme Council (RTÜK: *Radyo ve Televizyon Yüksek Kurulu*) (Jenkins, 2007, p. 344).[16] This visibility of military officials within civil institutions demonstrated that the national security understanding of the military elites affected the country in a broad sense from education to broadcasting.

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[15] Within the scope of EU membership negotiations, also known as the Copenhagen Criteria, Turkey made a series of reforms in 2004 to break the military's influence over civil politics. Accordingly, the composition of the MGK was redesigned in favor of a majority of civilian members. It was also the first time a civilian Secretary General was appointed to the MGK (Isiksel, 2013, p. 717).

[16] Military representation in the YÖK and RTÜK was also terminated with the reforms in 2004.

Another area in which the security state conception gained visibility was the judiciary with the establishment of State Security Courts. The DGMs[17] had been first created with a constitutional amendment in 1973 to try cases related to crimes threatening the state's national security, but they could not be established at that time because of the Constitutional Court's cancellation decision in terms of form (Katoğlu, 1994, p. 257). Nevertheless, they were created again with Article 143 of the 1982 Constitution. The article justifies the reason for establishing the DGMs as a means to deal with "offences against the indivisible integrity of the state with its territory and nation, the free democratic order, or against the Republic whose characteristics are defined in the Constitution, and offences directly involving the internal and external security of the State" (Constitution of the Republic of Turkey, 1982).

The army held a seat among the three-judge panel leading the DGM hearings (Jenkins, 2007, p. 344). As discussed in Chapter 2, the TSK already maintained its judicial autonomy due to the Janus-headed judiciary between civil and military courts in the country. Hence, I evaluate the ambiguous status of the DGMs between the civil and military judiciaries as the pure reflection of the security state perception, not only due to their name but also the place that they occupied in the gray area between the law-making and the law-preserving powers of the state.

3.1.2. Political Life in the Post-1980 Period

This section will show how the security state understanding was built into civil politics in this period, with its contradictions and primary actors.

Civilian political rule was re-established in Turkey with the general election held on 6 November 1983 (S. Aydın & Taşkın, 2014, p. 347). The right-of-center Motherland Party (ANAP: *Anavatan Partisi*), established by Turgut Özal, won the majority in the election, and Özal became the 19th

[17] DGMs were also the only courts where military personnel who committed crimes along with civilians could be tried when the General Staff adjudicated the prosecution of its personnel in these courts. The constitutional reforms in 2004 abolished the DGMs as well. Cases that previously fell under the jurisdiction of DGMs were transferred to the jurisdiction of courts of assize. After the abolition of the DGMs, a new dispute emerged between civil and military courts to decide the right court to try military defendants in cases where they committed crimes along with civilians and/or non-military crimes.

prime minister of the country in 1983 and the 8th president of Turkey in 1989. The ANAP ruled the country as a single party until 1991.

Özal's early career as an undersecretary of the Turkish State Planning Organization (1967–1971) and an economist at the World Bank (1971–1973) made him an important name for the implementation of western-oriented neo-liberal policies in Turkey, like his contemporary policy-makers Margaret Thatcher in the UK and Ronald Reagan in the USA (S. Aydın & Taşkın, 2014, pp. 350–351). However, Özal's liberal economic policies decreased his popularity due to increasing inflation and unemployment rates in the country, conditions that led his party to defeat in the 1991 election. His aggressive policies during the Gulf War (1990–1991)[18] to prove that Turkey was still a crucial US ally due to its strategic location despite the end of the Cold War and his insistence on solving the Kurdish problem through peaceful negotiations with the PKK also received much criticism from the army and nationalist opposition groups in Turkey. Both the Ministers of Foreign Affairs and National Defense (Ali Bozer and Safa Giray) and the Chief of the General Staff (Necip Torumtay) resigned in 1991 to protest and block Özal's aggressive Gulf Crisis policies, which tried to push Turkey into the war on the side of coalition forces led by the USA (Oran, 2010, p. 257).

Özal unexpectedly died of a suspicious heart attack in the office on 17 April 1993 (Hürriyet, 2012). Some journalists and politicians alleged that this suspicious death was part of a covert military coup in 1993 to end the peace negotiations with the PKK (Öztürk, 2011; Çetin, 2012; Öznur, 2012; Today's Zaman, 2013). Indeed, 1993 witnessed a series of suspicious deaths of state and military actors as well as journalists. The most crucial of these deaths within the state and the army were those of President Turgut Özal (April 1993), General Commander of the Turkish Gendarmerie Forces Eşref Bitlis (February 1993), and General Bahtiyar Aydın (October 1993). The common feature of these three high-profile officials was that they supported moderate policies on the Kurdish issue. These successive suspicious deaths were alleged to be a covert coup of the Turkish deep state to protect the covert relationships between the army, paramilitary groups (JİTEM, Hizbullah, *Kontrgerilla*), and the Turkish Mafia (Öznur, 2012).

[18] For details of Özal's aggressive policies during the Gulf War, see Oran, 2010, pp. 253–264.

Özal's ANAP had already lost the majority in the general election on 20 November 1991. This electoral defeat initiated an era of coalition governments in Turkish politics that would last until 18 November 2002, when the Justice and Development Party (AKP: *Adalet ve Kalkınma Partisi*) won the majority as a single party again. Among coalition governments, Tansu Çiller – from the right-of-center True Path Party (DYP: *Doğru Yol Partisi*) – was the only politician to serve as prime minister for three consecutive terms between 1993 and 1996. Çiller's era was significant not only because she was the first woman prime minister of the country; much more prominent were her aggressive policies on the Kurdish question, with the support of the Chief of the General Staff Doğan Güreş (1990–1994) and Head of the Turkish National Police Mehmet Ağar (1993–1995).

As I will discuss later in this chapter, Çiller's period was also a time when paramilitary violence was on the dramatic rise in the country. The unsolved murders, which had been generally committed in the Southeast until Çiller's term, were carried to the west of the country during her term, especially after her press release speech targeting Kurdish businessmen on 4 November 1993:

> Turkey confronts widespread terrorism, which has transformed into a militia movement. We have a list of artists and businessmen who make payments to the PKK; we will deal with them.[19]

After this speech, Kurdish businessmen (Behçet Cantürk, Savaş Buldan, Hacı Karay, Adnan Yıldırım) disappeared, and their corpses began to be found in the vicinity of İstanbul (Evrensel Gazetesi, 2013). These still-unsolved murders strengthened the suspicions at that time and in the following years that Çiller had a death-list.

Söyler alleges that the *autocratic cliques* within the deep state were consolidated in the 1990s around the network among the Çiller government, TSK, Turkish National Police, MİT, JİTEM, and mafia leaders Abdullah Çatlı and Alaattin Çakıcı (Söyler, 2015, pp. 147–149). Çiller explicitly defended this illegal network in nationalist terms in a speech she gave after the Susurluk Scandal, stating that "[t]hose who shoot bullets or those who are the targets of bullets in the name of the state

[19] "Türkiye, milis hareketi niteliğine dönüşmüş ve yaygınlaşmış bir terör hareketiyle karşı karşıyadır. PKK'nın haraç aldığı işadamları ve sanatçıların isimlerini biliyoruz, hesap soracağız" (Kılıç, 2009, p. 165).

are both honorable. They are heroes" (Söyler, 2015, p. 147). Instead of making a call for a legal inquiry to shed light on the Susurluk Scandal, her nationalist emphasis consecrated the *security state* understanding that the rule *of* law can be abandoned for the sake of the state.

The Kurdish political movement was also affected by this nationalist security state understanding in the 1990s. The People's Labor Party (HEP: *Halkın Emek Partisi*) was founded on 7 June 1990 as the first pro-Kurdish political party in Turkey (Güneş, 2012, p. 156). In the general election on 20 October 1991, the HEP allied with the Social Democratic Populist Party (SHP: *Sosyaldemokrat Halkçı Parti*) and secured twenty-two parliamentary seats. These HEP MPs also took an active role in the peace negotiations with the PKK, supported by Özal. The day before Özal's suspicious death, on 16 April 1993, six MPs from the HEP traveled to Bekaa Valley in Lebanon to talk about the prolongation of the cease-fire with the PKK, which had been unilaterally declared one month earlier (Güneş, 2012, p. 163). However, these peace negotiations did not last long after Özal's death and entirely ended with Tansu Çiller's government coming to power with aggressive policies on the Kurdish issue in June 1993.

Moreover, as the HEP advocated Kurdish cultural and political rights, the party was indicted with the charge of destroying the "inseparable unity" of the state and banned by the Constitutional Court on 14 July 1993 (Kogacioglu, 2004) – as were subsequent pro-Kurdish parties.[20] This was not the first time for the Kurdish political movement to be refused participation in the legal political sphere. As the following section will demonstrate, one of the reasons why the Kurdish armed struggle was revived in the 1980s was that the Kurds were not given a voice in formal politics. The PKK also presented the forced closure of the HEP and other successor parties as just cause for its armed struggle.

3.1.3. The Emergence of PKK Violence in the Post-1980 Period

[20] Pro-Kurdish parties banned by the Constitutional Court: HEP (1990–1993), DEP (1991–1994), HADEP (1994–2003), DTP (2005–2009). The longest running pro-Kurdish party in Turkey is the People's Democratic Party (HDP: *Halkların Demokratik Partisi*), founded in 2012, although many of its members are in prison, indicted with terror crimes at the time of the writing of this thesis.

As discussed in Chapter 2, Kurdish armed struggle had already started in the early Republican years. However, the suppression of these uprisings with total-war strategies resulted in great casualties on the side of the rebels and launched a period of inertia in the Kurdish national movement that lasted until the 1960s. The early rural characteristic of the Kurdish national movement started to change with the urbanization of the Kurdish population in the 1960s (Bozarslan, 2000, p. 23).

The urbanization and socialization of the Kurdish youth with Turkish left-wing groups in universities also expanded their strategies for spreading the causes of the Kurdish national movement through political publications, association establishments, and candidate nominations for national and local elections (Tezcür, 2015, p. 249). However, the hesitation of the Turkish socialist movement to recognize Kurdish national demands around the right to self-determination ultimately pushed the Kurdish political movement to organize separately.

The break away from the Turkish socialist movement was completed with the establishment of the Revolutionary Cultural Eastern Hearths (DDKO: *Devrimci Doğu Kültür Ocakları*) as an umbrella organization created by Kurdish university students in 1969 (Güneş, 2012, p. 68). As a political movement, the DDKO organized Eastern Meetings and published monthly bulletins in order to draw attention to the political and cultural rights of Kurds in Turkey violated by the state (Güneş, 2012, pp. 68–69). Despite these efforts, the first legal and democratic formation of the Kurdish political movement was destroyed and tried with the charge of "finding or taking part in the activities of an organization [*that sought, Ed.*] to destroy and weaken national feelings" with the military intervention of March 1971 (Güneş, 2012, p. 69). As much as the first generation of activism was suppressed, the trials had the paradoxical effect of leading to a debate between the prosecutors and the defendants about whether the Kurds and the Kurdish language existed in Turkey as a separate ethnic group and language (Orhan, 2015, pp. 51–53).

The destruction of the DDKO as a legal mechanism for the Kurdish political movement led Kurdish activists to embrace an armed struggle in the 1970s under the influence of a Marxist interpretation of nationalism and the successful national decolonization struggles in the Third World. As political scientist Güneş Murat Tezcür highlights:

> The underlying theme of this nationalism was that Turkey, Iraq, Iran, and Syria colonized Kurdistan. A nationalist revolution would end the rule of these colonial powers and establish independent Kurdistan; a socialist revolution would destroy the power of feudal and capitalist classes (Tezcür, 2015, p. 252).

As such, the Kurdistan Workers' Party (PKK: *Partîya Karkerên Kurdistanê*) was established as an armed Marxist-Leninist organization by a group of students led by Abdullah Öcalan in northern Kurdistan on 27 November 1978 to emancipate Kurds from colonial oppression (Balcı, 2017, p. 96).[21] The PKK then initiated a guerrilla war against the Turkish state on 15 August 1984. Bozarslan explains the still-ongoing success of the armed struggle of the PKK compared to the at-most three-year longevity of the revolts in the 1920s and 1930s with domestic and regional reasons:

> […] the domestic reasons (namely cycle of coercion and violence) is the main reason of this durability: as a matter of fact, at least until 1993, the violence exerted by the PKK was seen, by many young Kurds, as a policy responding to their own feelings of vengeance, and, thanks to their support, the PKK could determine the political agenda of the Turkish Kurdistan. But the regional alliances [*with the PKK arising from the Iranian revolution, the Iran-Iraq war, and Syrian-Turkish and Syrian-Iraqi tensions; Ed.*], the transformation of the regionally obtained resources into resources used in the Kurdish and Turkish political arena, constitute another key-element of the PKK's success, providing it with logistic and financial support and ensuring the protection of its leadership (Bozarslan, 2000, p. 29).

With the collapse of the USSR and thus of communism as a global threat for NATO countries, the PKK's emergence with national demands changed the perception of the *internal enemy* in Turkey, especially in the 1990s. Both the President of Turkey, who was also the leading military officer of the 1980 coup, Kenan Evren, and Prime Minister Turgut Özal initially underestimated the first attacks of the PKK in 1984, defining them as the actions of a few looters (Milliyet, 1984; Pulur, 2010). However, the unstoppable actions of the PKK would begin to be redefined as terror attacks

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[21] The PKK policy for a separate independent Kurdistan has evolved into autonomy-seeking in the Kurdish-inhabited countries over the years. For details, see White, 2000; Güneş, 2012.

in the country's internal politics, and the security policy of the country would be modified according to irregular warfare.

The previous armed Kurdish uprisings of the early Republican years had been suppressed by the conventional army with total-war strategies. However, the transnational character of the PKK attacks did not allow the state to go beyond its borders to maintain effective military operations. The PKK strategized that by setting up its base of operations outside of Turkey, the Turkish military would be limited. Indeed, the organization was initially organized and trained in Lebanon's Bekaa Valley and Syrian camps with the support of a sympathetic Syrian government. With the chaos following the Gulf War in the early 1990s, the PKK moved its camps to Northern Iraq, benefitting from the authority gap that emerged in the region due to the War (White, 2000; McDowall, 2007). The effect of cross-border PKK attacks in northern Kurdistan also revealed that the state had serious problems in its ability to "provide a *territorially-centralised* form of organization" in the region (Mann, 1984, p. 185).

Indeed, long before PKK violence, the state had resorted to despotic power to deal with the Kurdish rebellions in the 1920s and 1930s and the Kurdish question in a broad sense. It is possible to observe the state's autonomous power at that time in the creation of the dual state structure with the practice and policies of the Independence Tribunals, Reform Plan for the East, and Inspectorates-General. However, the emergence of the PKK as a threat in northern Kurdistan revealed that neither of these policies had strengthened the infrastructural power of the state in the region over the years.

The law-preserving power of the state in northern Kurdistan was considerably threatened by the law-making capacity of the PKK. Indeed, PKK actions did not only aim to weaken the military capacity of the state in the region but also ensure political control over the Kurdish territory and population. This is why the PKK militants did not leave the conflict scene without broadcasting their propaganda speeches from the minarets of local mosques during the first ambushes of the organization. They also established "people's courts" and released many prisoners incarcerated by the state (Bezci & Öztan, 2016, p. 170). Furthermore, the organization implemented a forced military conscription law between 1986 and 1990 over the Kurdish young men of military age as a certain challenge to the law-preserving power of the state (Marcus, 2007, p. 111). Therefore, it did not take long for the TSK to realize that the PKK attacks, in fact, posed a separatism threat to the indivisible integrity of the state.

The TSK responded to PKK violence in two ways that increased the state's despotic power in the region. First, the army updated its military strategy from pursuing a total war to the adoption of a low-intensity conflict (LIC) doctrine (Kışlalı, 1996; Özdağ, 2005; Balta Paker, 2010; Bezci & Öztan, 2016). For this aim, it reorganized the controversial ÖHD – the only organization of the country that was formed according to the LIC doctrine – under the name of the Special Forces Command (ÖKK: *Özel Kuvvetler Komutanlığı*) in 1992 and trained more specialized personnel (special commando units and special noncommissioned officers) for irregular warfare. As a result, while the number of specially trained personnel in the army and police serving in the Southeast was increased, the size of conventional military units was decreased (Bezci & Öztan, 2016, p. 173). The army, which followed the defense strategy against the PKK in urban areas between 1989 and 1993, shifted to an offensive strategy from 1993 aimed at holding strategic zones in the mountains and rural areas to cut the food and supply support of local people to the PKK (Jongerden, 2007, p. 78; Balta Paker, 2010, p. 417).

The effective implementation of these military strategies inevitably entailed the state reorganizing its despotic power in the region. As discussed earlier, it was also not difficult for the TSK to impose its decisions on politicians via the empowered MGK tool after the post-1980 coup period. The section below describes the legal and administrative COIN strategies of the state against the PKK, which increased the state's autonomy of power regarding the Kurdish issue and caused the reestablishment of a dual state structure between the normative (based on the superiority of the rule *of* law principle) and prerogative (based on the arbitrarily implemented rule *by* law principle) state dichotomy in the country again since the Inspectorates-General experience.

3.2. Counterinsurgency Strategies of the State in the 1980s and 1990s

Chapter 2 examined how the Turkish paramilitary legacy was formed in a wide time range from the 1890s to the early 1980s. This section will trace the legal dynamics of this legacy from 1985 to the early 2000s in relation to the counterinsurgency strategies of the state.

3.2.1. Formation of the Temporary Village Guard System

The first legal regulation against the PKK attacks was provided by the Law on the Addition of Two Clauses to Article 74 of the Village Law (*Köy Kanununun 74 üncü Maddesine İki Fıkra Eklenmesine Dair Kanun*) on 26 March 1985. This law redesigned the Village Guard System – introduced by the Village Law of 1924 – for the conflict-ridden southeastern provinces under the heading of "Temporary Village Guard" (TVG: *Geçici Köy Koruculuğu*). As discussed in Chapter 2, the state had initially formulated the Village Guard System as an auxiliary force for the state forces to fight gangster and banditry activities as one of the greatest challenges for the state seeking to establish its countrywide monopoly over violence in the early Republican years.

The original law had applied to all villages of the country. As Article 74 stipulated, the authority to create village guards belonged to the village headman and the council of elders within the village (Köy Kanunu, 1924). The following statement added to Article 74 in 1985 transformed the Village Guard System from a local security mechanism into a national security strategy against the PKK:

> If there are serious indications of circumstances requiring state of emergency or acts of violence in villages or their surrounding, or if attacks on villagers' life and property increases for any reason, then "Temporary Village Guards" may be employed in provinces to be determined by the Cabinet, upon the proposal of the Governor and the approval of the Ministry of Internal Affairs. The salaries of the temporary village guards that are appointed in this respect are to be paid for the duration of their duties and compensations will be given to them upon the end of duty. The amount is determined by the Cabinet upon the demand of the Ministry of Internal Affairs' and the related expenses of the budget of the Ministry of Finance and Customs are to be transferred to the budget of the Ministry of Internal Affairs, which then makes the necessary payments. Salaries and compensations that will be paid to the village guards are exempted from all kinds of taxes and fees (Özar et al., 2013, p. 40).

As such, the Council of Ministers chose twenty-two provinces[22] in which to employ TVGs on 27 June 1985 (Beşe, 2006b, p. 140). Map 3.1 below clearly shows that the TVG system was implemented in northern Kurdistan, where PKK activities posed a direct threat to the law-preserving power of the state. Delegating the monopoly over violence to the local TVGs in these chosen provinces instead of assigning official law-enforcement bodies (gendarmerie and police forces) confirms that the state had not been able to build its infrastructural power in northern Kurdistan despite the sixty-one years that had passed between 1924 and 1985. Also, the inclusion of all border provinces in the east and southeast into the TVG system demonstrates that the state perceived the cross-border characteristic of PKK actions as a national security alert at the highest level.

Map 3.1: Distribution of Temporary Village Guards by Provinces in 1985

[22] Provinces selected for the TVG system: Diyarbakır, Şırnak, Batman, Bingöl, Bitlis, Mardin, Muş, Siirt, Van, Hakkari, Tunceli, Adıyaman, Ağrı, Ardahan, Elazığ, Gaziantep, Iğdır, Kilis, Kahramanmaraş, Kilis, Malatya, Şanlıurfa.

TVGs[23] are administratively under the authority of village headmen and professionally under the command of regional gendarmerie commanders. The commanders are also responsible for the military training and supervision of village guards (Beşe, 2006b, p. 139). In addition to the TVGs, the ordinary Village Guard System stipulated by the Village Law of 1924 also continues under the title of "Voluntary Village Guard" (VVG: *Gönüllü Köy Koruculuğu*). VVGs consist of civilians who volunteer to protect their villages against PKK violence. Compared to the TVGs, they are unpaid, although their weapons and equipment are also provided by the state. Furthermore, they do not have the authority to participate in active operations alongside security forces against the PKK as the TVGs do (Beşe, 2006b, p. 139).

It is possible to consider the TVG system as a revival of the Hamidiye Regiments in the region (Klein, 2011, p. 179). Although there are historical and contextual differences between the two groups, there are also many similarities that reflect the Hamidiye Regiments' legacy in the formation of TVGs. In both cases, the formation of semi-official militia groups was based on a loyalty bond between the state and Kurdish tribes. As already seen in the Hamidiye Regiments, this bond was reassured with some privileges given to TVG tribes in the mid-1980s. The most crucial privilege was the impunity guarantee given to compliant tribes in both cases. For example, in exchange for joining TVGs, the state pardoned all members of the Jirki tribe, who were previously involved in ordinary crimes (Sol, 2009; Ekinci, 2011, p. 20). Other privileges included the allowance of smuggling activities in border regions and the support of TVG tribes in local issues against non-TVG ones (Balta Paker & Akça, 2013, p. 15). Thus, I argue that the state has put the same balance of power policy of the 1890s into practice with the creation of the TVG system to compensate for its lack of infrastructural power in northern Kurdistan vis-a-vis disloyal tribes and the PKK.

Another similarity that can be seen between the Hamidiye Regiments and TVGs is their criminal activities based on their local autonomy and privileges provided by the state. Even in the first years of the TVG system, village guards received media coverage due to their ordinary crimes such as

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[23] Although its name was changed to "Security Village Guards of Turkey" (SVG: *Türkiye Güvenlik Köy Koruculari*) in 2016, the TVG system is still in force at the present time. According to a statement of Minister of Internal Affairs Süleyman Soylu in November 2019, there were 54,000 SVGs in Turkey (Amerika'nın Sesi, 2019).

arbitrary murder, racketeering, kidnapping, ransom demands, rape, and expropriation of animals and arable fields (Aydar et al., 1989; Karadeniz & Ateş, 1989). The first most detailed report on TVGs was published in the weekly left-wing critical magazine *İkibin'e Doğru*, which would also publish the first news about the relationships of Hizbullah and JİTEM with the state in the early 1990s. In the report, based on interviews with villagers in Adıyaman and Siirt provinces, the magazine described TVGs as "Head Hunters (*Kelle Avcıları*)" on 11 June 1989. Villagers reported that as the state offered a monetary reward per terrorist killed, TVGs competed with each other in terrorist hunting. The most striking part of the news was that when there were no PKK militants around to *hunt*, the village guards killed their personal foes or leftist people and presented them to state officials as PKK terrorists to demand their reward (Aydar et al., 1989, pp. 20–23).

Another report published in the same magazine on 10 December 1989 focused on the collaboration between the state and TVG tribes against non-TVG tribes in the region. The magazine based its report on interviews with villagers who survived the İkiyaka Village Massacre on the Iraqi border in Hakkari's Yüksekova district. The responsible party for the massacre that resulted in the death of 28 villagers on 24 November 1989 was shown as the PKK by state officials and was covered as such in pro-state media, e.g., the *Milliyet* and *Cumhuriyet* newspapers (Milliyet, 1989, p. 8; Cumhuriyet, 1989, p. 19). However, the villagers who spoke to *İkibin'e Doğru* reported that they were attacked by TVGs as a part of the state's punishment strategy because they refused to join the TVG system. The villagers explained that the state was supporting TVG tribes and even ignoring their crimes against disloyal non-TVG tribes. Accordingly, military officials in the region authorized TVGs to raid and burn the villages and kill the villagers. At the end of these operations, the PKK was claimed to have committed these atrocities (Karadeniz & Ateş, 1989, pp. 8–14).

Apart from this first media coverage, the criminal proclivity and the state-supported local autonomy of TVGs under a negotiated impunity guarantee were also mentioned and reported in many academic studies and human rights reports published in the following years (Human Rights Watch, 2005; Jongerden, 2010; Özar et al., 2013; Balta Paker & Akça, 2013). As the conflict between the TSK and the PKK escalated and the state adopted its LIC strategy to break the link between the villagers and the PKK in rural areas towards the early 1990s, the policy to distinguish loyal tribes from disloyal ones began to be implemented for ordinary villagers as well to distinguish between loyal citizens and disloyal ones. The bargaining chip of the state to force ordinary villagers to join village guards was village evacuations. Accordingly, the only choice for villagers to remain in their

villages was to become a village guard. The decision of the villagers also made them a target for the PKK. Most of the PKK attacks until 1990 were directed at village guard villages (Balta Paker & Akça, 2013, p. 21). This situation contributed to a cycle of cause and effect, with many subsequent villagers, fearing PKK violence, seeking to become Volunteer Village Guards and receive arms from the state in order to protect themselves against PKK violence. According to official data of the Ministry of Internal Affairs, in 2003 there were 58,511 TVGs and 12,279 VVGs in the region (Balta Paker & Akça, 2013, p. 18). According to Human Rights Watch's report in 2005, more than 3000 villages were destroyed by military and paramilitary forces in northern Kurdistan, and 378,335 Kurdish villagers were displaced by the mid-1990s (Human Rights Watch, 2005, pp. 5–6).

3.2.2. Formation of the Repentance System

Another COIN law enacted in 1985 was Law on the Provisions to be Applied to Some Criminal Offenders No. 3216 (*Bazı Suç Failleri Hakkında Uygulanacak Hükümlere Dair Kanun*), dated 5 June 1985. The law was initially issued for two years but was regularly renewed five times (in 1988, 1990, 1992, 1995, and 1999) with minor modifications. In 2003, it took the name of Reinstatement into Society Law (*Topluma Kazandırma Kanunu*) for a six-month period. Eventually, the temporary status of the laws became permanent with the addition of Article 221 under the title of Effective Repentance (*Etkin Pişmanlık*) to the Turkish Penal Code in 2005. These laws, based on "plea bargaining" between the state and members of terrorist organizations, have been long considered as repentance laws in society (Biner, 2006, p. 339). Therefore, I will use the term "repentant" for the beneficiaries of these laws interchangeably with "PKK defector" or "confessing informant" throughout the rest of the thesis.

These laws apply to all organizations deemed terrorist by the state; however, they occupied the agenda mostly with PKK defectors. Reports based on PKK sources in 2005 mentioned that there were five hundred confessing informants still working for the state (Söylemez, 2005, p. 56). Then-Minister of Justice Mehmet Ali Şahin stated in 2009 that from 1 June 2005, when the effective repentance clause was added to the Turkish Penal Code, until 31 October 2008, 735 people benefited from the law; 668 of them were PKK defectors (Cumhuriyet, 2009).

The most crucial factor that made the repentance laws attractive for PKK defectors was their *limbo* position between the state and the PKK. As will be elaborated in Chapter 6 with the accounts of the

repentant Abdülkadir Aygan, the repentance laws provided a new life for the defectors with some protective guarantees against any possible PKK violence since they were already declared traitors by the organization due to their decision to withdraw.

Nevertheless, the state required that the applicants meet certain criteria in order to benefit from the promised guarantees of these laws (Yılmaz, 2012, p. 69). Accordingly, guarantees were only obtained in exchange for applicants sharing information about the internal functioning and activities of terrorist organizations. After the given testimony's credibility was verified by state officials, the repentance laws stipulated that applicants would receive amnesty if they had not been involved in any violent activities that resulted in human casualties; otherwise, they would receive a reduction in punishment of up to half or three-quarters of the original sentence designated by the Turkish Penal Code (Biner, 2006, p. 339; Unal, 2016, p. 130).

The beneficiaries were also entitled to benefit from the witness protection program. Article 2 of the first law in 1985 stated that "[…] upon the request of the person concerned, all kinds of protective measures, including change of identity, are taken by the state."[24] Article 2 of the second law in 1988 clarified the protective measures as follows:

> the change of the physical appearance by means of plastic surgery; placement of the spouse and him/herself in a job at home or abroad without seeking an examination and criminal record; the change of birth registration, driver's license, marriage certificate, diploma, and similar documents including those of mother, father, spouse, and children; regulation of military service; protection of the rights on movable and immovable assets, social security and other acquired rights.[25]

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[24] Madde 2: "ilgilinin isteği halinde Devlet tarafından hüviyet değiştirme dahil gereken her türlü koruma tedbirleri alınır" (Bazı Suç Failleri Hakkında Uygulanacak Hükümlere Dair Kanun, 1985).

[25] Madde 2: "Bu koruma tedbirleri; estetik cerrahî yoluyla fizyolojik görünümün değiştirilmesi, sınav ve sabıka kaydı aranmaksızın eşinin ve kendisinin yurt içinde veya yurt dışında bir işe yerleştirilmesi; ana, baba, eş ve çocukları dahil nüfus kaydı, ehliyetname, evlenme cüzdanı, diploma ve benzeri belgelerin değiştirilmesi, askerlik işleminin düzenlenmesi, menkul ve gayrimenkul mal varlıkları ile ilgili hakları, sosyal güvenlik ve diğer müktesep haklarının korunması gibi tedbirlerdir" (Bazı Suç Failleri Hakkında Uygulanacak Hükümlere Dair Kanun, 1988).

The same article also stipulated that all expenses regarding the provision of these protection measures would be covered from the budget of the Ministry of Internal Affairs.[26] The third law in 1990 expanded the scope of the protective measures even further with the addition of the following phrase to Article 2: "with the approval of the relevant governor, financial assistance can be provided, and life safety measures can be taken for applicants and their parents, spouses, and children until the court decision is finalized."[27]

The implementation of these abovementioned measures was based on a confidentiality agreement between the Ministry of Internal Affairs and repentants, which meant that the Ministry would not share the real identities of the repentants with any other state institutions (Bazı Suç Failleri Hakkında Uygulanacak Hükümlere Dair Kanun, 1988). As will be detailed in Chapter 7, this issue has been raised repeatedly during the JİTEM trials. Although it was understood during these trials that some repentants were involved in illegal activities alongside JİTEM, the Ministry refused to share their real identities and addresses with courts.

The impunity-assured collaboration with both the repentants and TVGs was not specific to the conflict in Turkey; instead, it was a part of worldwide irregular warfare practice, like that seen in the examples of the *Rondas Campesinas* (Peasant Rounds) of Peru and *Pentimento* (Repentance) Laws of Italy (Fumerton, 2001; Moss, 2001). In both cases, civilian support is considered the *sine qua non* for the state's COIN victory, as Stathis Kalyvas underlines in his book scrutinizing the logic of violence in civil wars (Kalyvas, 2006, pp. 91–92).

Indeed, Turkey has a deep-rooted historical and legal legacy for creating impunity-granting relationships with specific individuals or groups that I discuss as *contractual violence* in this thesis. As exemplified in Chapter 2, it is possible to trace this relationship back to the Hamidiye

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[26] "Koruma tedbirlerinin uygulanması ile gerektiğinde ailelerin güvenliklerinin sağlanması amacıyla başka bir yere yerleştirilmeleri için yapılacak harcamalar, maddî yardımlar, tedavi ücretleri ve tahkikatın gerektirdiği araç kiralaması, yol gideri ve gündelik gibi giderler, İçişleri Bakanlığı bütçesinin ilgili tertibine konulan ödenekten karşılanır" (Bazı Suç Failleri Hakkında Uygulanacak Hükümlere Dair Kanun, 1988).

[27] Madde 2: "İtirafta bulunan kişi ile ana, baba, eş ve çocuklarına mahkemenin karar vermesine kadar geçen süre içinde de ilgili valinin onayı ile maddi yardım yapılabilir ve can güvenlikleri ile ilgili tedbirler alınabilir" (Bazı Suç Failleri Hakkında Uygulanacak Hükümlere Dair Kanunda Değişiklik Yapılmasına İlişkin Kanun, 1990).

Regiments, considering the modern state model in the Weberian sense. While this impunity was guaranteed with specific negotiations between the state and Kurdish tribes in the Hamidiye Regiments and later the Village Guard System, there were also cases where this impunity-giving relationship was explicitly marked with laws. For instance, the release of thousands of criminals – thought to be serviceable for paramilitary units – from Ottoman prisons by the CUP's amnesty laws of 1914 and 1916 was a clear example of this legal practice. The aforementioned repentance laws were actually the continuity of this legal logic and practice.

First, like the laws of 1914 and 1916, the repentance laws were also enacted within the state's COIN strategy. Both the CUP's amnesty laws and the Turkish state's repentance laws were, in fact, proclaimed for certain individuals. While the target group comprised criminals with a past of banditry and gang membership in the CUP laws, rebel turncoats were targeted by the repentance laws.

Second, in both cases, the beneficiaries of the laws were later recruited into paramilitary formations by an impunity bargaining provided by the state for their past crimes. In the first case, the beneficiaries gained value for the paramilitary strategies of the state due to their past gang and banditry experiences, whereas in the second case, the repentants were deemed valuable due to their insider positions for both their organizational (regarding their former *terorist* organizations) and local knowledge (e.g., language and local territories).

3.2.3. Formation of State of Emergency Rule in Northern Kurdistan

The third COIN strategy of the state was to form a State of Emergency (OHAL: *Olağanüstü Hal*) rule in thirteen Kurdish provinces (see Map 3.2) between 1987 and 2002. I evaluate the OHAL administration as the institutional revival of the dual state structure in the country that had been last implemented with the Inspectorates-General practice between 1927 and 1952. By the emergency declaration, general state rule was suspended for people living in the thirteen provinces, and exceptional governance with its own legal establishment was created for northern Kurdistan.

Map 3.2: OHAL Provinces

The emergency rule in the region was put into action with the creation of the Governorate of Region in State of Emergency in Diyarbakır on 19 July 1987 (Jongerden, 2007, p. 138). The Governorate was normally under the domain of the Ministry of Internal Affairs, as any other provincial governorate is in Turkey. Beyond their administrative authorities, OHAL governors also had direct control over the security forces within the region, such that a special Gendarmerie Public Security Command (JAK: *Jandarma Asayiş Kolordu Komutanlığı*) was created under the domain of the OHAL Governorate. In addition, MİT personnel in the region were made accountable to the OHAL Governorate with Emergency Decree No. 286 on 10 July 1987 (Bezci & Öztan, 2016, pp. 174–175; Has, 2017, p. 73). Thus, the broad authorities given to the OHAL Governorate caused the OHAL region to be referred to as the "Super Region (*Süper Bölge*)" and OHAL governors as "Super Governors (*Süper Valiler*)."[28] Likewise, JAK Commanders[29] were referred to as Shadow Super

[28] OHAL Governors, respectively: Hayri Kozakçıoğlu (1987–1991), Mehmet Necati Çetinkaya (1991–1992), Ünal Erkan (1992–1995), Necati Bilican (1995–1997), Aydın Arslan (1997–1999), and Gökhan Aydıner (1999–2002).

[29] JAK Commanders, respectively: Hulusi Sayın (1987–1989), İsmail Selen (1989–1990), Hikmet Köksal (1990–1992), Necati Özgen (1992–1993), Hasan Kundakçı (1992–1995), Altay Tokat (1995). In 1995, the Gendarmerie Public Security Command was attached to the Land Forces Command (Kılıç, 2009, p. 193).

Governors in the media as the most authoritative military officials directly responsible for the security of the region (Akfirat, 1990, p. 21).

State of emergency legislation was a part of the national security understanding of the state updated after the 1980 coup. The constitutions of 1924 and 1961 had only regulated martial law and the state of war as exceptional administrations, and the state of emergency was first defined in the Constitution of 1982. Three fundamental legal documents that constitute emergency rule in Turkey are, in hierarchical order, the Constitution of 1982, the Law on State of Emergency No. 2935, and statutory decrees issued in emergency times. However, the emergency experience between 1987 and 2002 showed that the hierarchical order between legal texts was reversed with the recession of the rule *of* law principle in the face of rule *by* law with an arbitrary instrumentalization of law through extra-legal enactment of statutory decrees. The following analysis of the legal documents will demonstrate how the law was instrumentalized by the executive body vis-a-vis the legislative body.

The procedure regarding emergency governance is regulated within Articles 119–121 of the 1982 Constitution. Article 119 relates the declaration of a state of emergency to natural disaster and economic crises, while Article 120 relates it to acts of violence. In cases of "widespread acts of violence and serious deterioration of public order," Article 120 authorizes "the Council of Ministers, meeting under the chairmanship of the President of the Republic, after consultation with the National Security Council" to declare a state of emergency in a specific region/s or the entire country (Constitution of the Republic of Turkey, 1982). The same article also highlights that emergency governance shall not exceed six months. However, Article 121 authorizes the TBMM to extend the period "for a maximum of four months each time at the request of the Council of Ministers" (Constitution of the Republic of Turkey, 1982).

The OHAL rule was also declared initially for a six-month period in 1987 but was renewed forty-six times for four-month periods up to 30 November 2002 (Has, 2017, p. 74). It is also the TBMM that decides the removal of the state of emergency. Article 121 is also remarkable for outlining the post-declaration procedure. The article authorizes the Council of Ministers meeting under the chairmanship of the President of the Republic to issue statutory decrees on matters necessitated by the state of emergency and also adds that "[t]hese decrees shall be published in the Official Gazette, and shall be submitted to the Turkish Grand National Assembly on the same day for approval; the

time limit and procedure for their approval by the Assembly shall be indicated in the Rules of Procedure" (Constitution of the Republic of Turkey, 1982).

The conflict between the rule *of* law and rule *by* law in the OHAL practice derives from two ambiguities within Article 121. First, it gave the Council of Ministers broad authority to issue a statutory decree by not specifying "the matters necessitated by the state of emergency." Second, it gave authority to the Rules of Procedure of the Parliament (*Meclis İçtüzüğü*) to define the time limit and conditions for approval of these decrees, but the procedure had no such regulation until 1996.[30] The fact that all emergency decrees (see Table 3.1) were enacted before 1996 indicates the extent of the executive body's arbitrary authority over legislative procedures.

Table 3.1: Distribution of OHAL Decrees by Year (Has, 2017, p. 70)

1987	1988	1989	1990	1991	1993
Decree 285	Decree 313	Decree 387	Decree 413	Decree 432	Decree 481
Decree 286	Decree 321		Decree 421		
Decree 287			Decree 424		
Decree 299			Decree 425		
			Decree 426		
			Decree 427		
			Decree 428		
			Decree 430		
4	2	1	8	1	1

[30] There is a distinction between statutory decrees issued in normal times and statutory decrees issued in emergency times in the 1982 Constitution. According to Article 91 of the Constitution, ordinary decrees shall be submitted to the TBMM on the day of their publication in the Official Gazette. The submitted decrees shall be discussed for an approval decision in the committees and in the plenary session of the TBMM with priority and urgency. The same article also states: "Decrees not submitted to the Turkish Grand National Assembly on the day of their publication shall cease to have effect on that day and decrees rejected by the Turkish Grand National Assembly shall cease to have effect on the day of the publication of the decision in the Official Gazette" (Constitution of the Republic of Turkey, 1982). There is no such procedure detailed for emergency decrees in the 1982 Constitution, but the regulation made on the TBMM's Rules of Procedure on 24 May 1996 specified that the emergency decrees shall be immediately discussed for an approval decision in committees and the plenary session of the TBMM and concluded within thirty days with a priority over ordinary decrees, draft laws, and bills (Has, 2017, p. 82).

The arbitrary executive treatment regarding the emergency decrees caused the instrumentalization of law to provide a cover of impunity for the state officials in the OHAL region, with extra-legal modifications on the Law on State of Emergency No. 2935.

Law No. 2935 was enacted on 25 October 1983 to outline the emergency governance in Turkey. Article 3 of the law listed the governance authorities of the state during a state of emergency declaration due to acts of violence as follows: Settlement restriction, ban, or evacuation; education suspension and dormitory closure; control, closure, or use, if necessary, of entertainment places, clubs, and accommodations; use or expropriation of all communication tools in the state of emergency region; control, restriction, or ban of foodstuffs, animals, animal products, and products of heating, hygiene, and medicine; registration or ban of transportation vehicles in the region; curfew; assembly ban in certain places or at certain hours; body and vehicle search; obligation for people to carry identity cards in the emergency region; permission or ban on printing, duplication, publication, distribution, and confiscation of newspapers, magazines, brochures, books, pamphlets, posters, etc. in the region and permission or ban of their import into the region if printed outside of the region; control or ban on words, texts, images, movies, records, and cassettes; ban on carrying of any kind of gun or bullets even if licensed; control of entry to and exit from the region; ban on the settlement of people deemed suspicious and their deportation from the region; and permission, delay, control, or ban on meetings and demonstration marches (Olağanüstü Hal Kanunu, 1983).

Article 33 of the law states that "[s]tays of execution shall not be decided for lawsuits that are prosecuted against the administrative acts of governors arising from this Law."[31] Considering the broad authorities of the OHAL Governors over security forces in the region, it is evident that Article 33 provides an impunity guarantee for Super Governors' decisions even if they caused harm to civilian people. Moreover, Article 4 of Decree No. 413 (1990) and Article 2 of Decree No. 425 (1990) arbitrarily expanded the impunity cover over the acts of the Ministry of Internal Affairs and provincial governors within the OHAL region (Has, 2017, pp. 93–94). It is thus evident that both

[31] Madde 33: "Valilerin bu Kanunun verdiği yetkileri kullanarak yapacakları idarî işlemlere karşı açılacak davalarda yürütmenin durdurulmasına karar verilemez" (Olağanüstü Hal Kanunu, 1983).

decrees created an extra-legal status within Article 33 of the Emergency Law without any discussion or approval in the TBMM.

In order to better understand this direct link between the state of exception and impunity, the work of American philosopher Judith Butler is enlightening. Butler revealed and criticized the hypocrisy of the USA's "War on Terror" policies after the 9/11 aggression as follows:

> as law is suspended, sovereignty is exercised; moreover, sovereignty comes to exist to the extent that a domain - understood as "the exception" - immune from law is established (Butler, 2006, p. 61).

However, the sovereignty that Butler refers to here is not necessarily sovereignty exercised in the hands of the state. The first theoretician of the *state of exception* concept, Carl Schmidt, defines a sovereign as one "who decides on the exception" (Schmidt, 2005, p. 5). While Schmidt's description of the sovereign refers to the absolute authority of the state, Butler speaks of diffusional sovereignty. Accordingly, in cases of exception where impunity is built, sovereignty is exercised in the hands of "petty sovereigns [that] abound, reigning in the midst of bureaucratic army institutions" (Butler, 2006, p. 56).

Indeed, the abovementioned OHAL legislation of the Turkish state and the expansion of the impunity over state officials by the controversial emergency decrees created a situation in which state officials arbitrarily enjoyed their broad authorities. As Isiksel emphasizes, the OHAL rule "deprived millions of citizens of basic rights protections, allowing rampant extrajudicial killings, disappearances, torture, ill-treatment, forcible displacement, and countless other grave abuses" (Isiksel, 2013, p. 718). Thus, it was not a coincidence that two infamous informal paramilitary groups, JİTEM and Hizbullah, were formed and widely active in the OHAL region in these years. Again, PÖH teams and Village Guards were mostly deployed in the OHAL region as two semi-official paramilitary groups. It is known that these groups have carried out many extra-legal activities against the civilian population rather than directly fighting the PKK.

Table 3.2 below indicates the enforced disappearances by year and Table 3.3 demonstrates the unresolved murders by year, revealing that the number of cases dramatically increased for Kurdish

civilians in the OHAL years. It is seen in both tables that these numbers reached their peaks in 1993 and 1994 and then dropped drastically after 1996.

Table 3.2: The Number of Disappeared by Year (Göral et al., 2013, p. 24)

Years	Numbers
1980–1990	**33**
1991	**18**
1992	**22**
1993	**103**
1994	**518**
1995	232
1996	170
1997	94
1998	50
1999	76
After 2000	33
Date unknown	4
Total	**1353**

Table 3.3: The Number of Murders by Unknown Perpetrators by Year (Milliyet, 2012)

Years	Numbers
1987–1990	**26**
1990	**11**
1991	**31**
1992	**362**
1993	**467**
1994	**423**
1995	166
1996	113
1997	65
1998	45
1999	52

2000	13
2001	24
2002	8
Total	**1806**

The most significant reason for the increase in 1993 was the consensus of the executive, military, and paramilitary cliques of the state to adopt a more aggressive policy regarding the Kurdish issue, with Tansu Çiller becoming prime minister in the same year. The first reflections of this consensus had already appeared in the press in 1992. For example, *İkibin'e Doğru* announced the new-war concept of the state as "*Topyekun Mücadele* (Total Struggle)" on 4 October 1992 (İkibin'e Doğru, 1992c, p. 8). The magazine, basing its report on an official who had attended the MGK meeting on 25 September 1992, claimed that the state would move from a defensive position to an offensive position in the Southeast in 1993. According to the unnamed official in the report, the state decided that the problem was not merely a PKK problem but turned into a regional uprising. Accordingly, the state's new solution policy was that the PKK problem and the Kurdish problem would no longer be considered separately, and both would be fought using both military and psychological warfare methods (İkibin'e Doğru, 1992c, p. 11).

What was mentioned in the report was actually that the LIC doctrine would be put into practice in 1993, with its all political, economic, and psychological warfare strategies targeting not only rebel groups but also civilians (Ware, 1988; Thompson, 1989; Hammond, 1990; Collins, 1990; Shultz, 1991; Suissa, 2012). The suspicious death of pro-peace officials in the Kurdish issue and Tansu Çiller's coming to power with her aggressive approach facilitated the implementation of this doctrine in 1993. Tables 3.2 and 3.3 show how firmly this doctrine was applied against civilians in 1993 and 1994. Martin van Bruinessen explained the decrease after 1994 by citing two reasons:

> This decline does not reflect, however, a general improvement in the human rights situation and in public security in southeastern Turkey. Rather, much of it is due to a gradual relaxation of the conflict between Hizbullah and PKK sympathizers. No doubt another reason for the decline is that there are fewer candidates for assassination left (Van Bruinessen, 1996, p. 23).

The most prominent decline in both unsolved murders and enforced disappearances was observed after 1996. Indeed, the figures between 1996 and 1997 seem almost halved. The main reason for this decline was the deciphering of authoritarian cliques within the deep state structure following the Susurluk Scandal. This abrupt decline in murders after Susurluk was also noted in the Prime Ministry Inspection Susurluk Report (Savaş, 1998, p. 11).

3.2.4. Anti-Terror Law

Law on the Fight Against Terrorism No. 3713 (*Terörle Mücadele Kanunu*, TMK) was one of the most crucial legal documents that made up the COIN strategy of the state in the 1990s. The TMK was enacted on 12 April 1991. Although it was amended several times in the following years, it maintained its substance by granting security forces unfettered authorities deriving from the TMK's ambiguous definition of terrorist acts, terrorist offenders, and propaganda of terrorism (HRA, 2017). Article 1 of the law defined terrorism as follows:

> any kind of act done by one or more persons belonging to an organization with the aim of changing the characteristics of the Republic as specified in the Constitution, its political, legal, social, secular and economic system, damaging the indivisible unity of the State with its territory and nation, endangering the existence of the Turkish State and Republic, weakening or destroying or seizing the authority of the State, eliminating fundamental rights and freedoms, or damaging the internal and external security of the State, public order or general health by means of pressure, force and violence, terror, intimidation, oppression or threat. An organization for the purposes of this Law is constituted by two or more persons coming together for a common purpose. The term "organization" also includes formations, associations, armed associations, gangs or armed gangs as described in the Turkish Penal Code and in the provisions of special laws (Anti-Terror Law, 1991).

The *all-inclusive* definition of *terrorism* and *terrorist organization* in this article provided law enforcement bodies a broad interpretation authority to decide which act/organization was a terrorist act/organization or not. As stated in Article 2, any members of such organizations – regardless of whether they committed a crime – mentioned in Article 1 and those "who are not members of a terrorist organization, but commit a crime in the name of the organization" are considered as

terrorist offenders and subject to the same penal procedure with organization members (Anti-Terror Law, 1991).

Although there is no definition of terrorism in the Turkish Penal Code (TCK: *Türk Ceza Kanunu*), in Article 3, the TMK defined Articles 125, 131, 146, 147, 148, 149, 156, 168, 171, and 172 of the TCK, as all crimes threatening the national security and indivisible unity of the Turkish state, and thus should be read as terrorist acts. Furthermore, Article 5 created a new punishment for the abovementioned articles within the TCK, stating that penalties of imprisonment and fines imposed by the TCK for the related articles shall be increased by one half if the crimes were committed with terrorist aims. If the law enforcement bodies concluded that the individual(s) had committed the crime for terrorist purposes under the broad definition of Article 1, the TMK authorized DGMs in Article 9 to impose sentences outside the state's ordinary criminal system under the TCK (Alexander et al., 2008, p. 131).

There is a second ambiguity within the TMK related to the *propaganda of terrorism*. Article 7 of the TMK penalized terrorist propaganda from 1 to 5 years, but the law did not define the term "propaganda." It only stated in Article 8 that "[w]ritten and oral propaganda and assemblies, meetings and demonstrations aimed at damaging the indivisible unity of the Turkish Republic with its territory and nation are forbidden, regardless of the methods, intentions and ideas behind such activities" (Anti-Terror Law, 1991). Thus, the lack of a clear definition of written and oral propaganda within the law left the authority of assessment again to the interpretation of the law enforcement bodies.

The strategically composed ambiguous language of the TMK allowing arbitrary interpretation of both terrorist acts and actors has led to the sacrifice of many fundamental human rights, especially in northern Kurdistan, and prosecution of mostly non-violent actions like freedom of expression and association for legal civil, and political events. As a result, thousands of people (including journalists, human rights defenders, students, academics, and political dissidents) who actually did not have any link to terrorism have been prosecuted under the TMK (KHRP, 2008, p. 3).

There are further grounds for complaints about the rapidly changing conditions in northern Kurdistan: the protection of the most abusive members of the "anti-terrorism" apparatus. While the detention procedure in terms of time and access to lawyers took longer for those tried under the

TMK, in situations where "chiefs and officers of police and intelligence or other officials engaged in fighting terrorism are publicly prosecuted for crimes allegedly committed during the course of their duty, they shall be tried without being detained," as stated in Article 15 (Anti-Terror Law, 1991).

It is evident that the TMK stands in the gray zone between the law-making and law-preserving powers of the state. While creating a new criminal procedure beyond the already existent Turkish Penal Code within the scope of the state's law-preserving power, it also gave broad law-making authorities to law enforcement bodies to assign any *act*, *actor*, and *organization* terrorism charges.

3.3. Gendarmerie Intelligence and Counter-Terrorism Organization - *JİTEM*

The abovementioned legal foundations of the state's COIN strategy have demonstrated the extent to which the state equipped its officials and security forces with extraordinarily broad powers in the gray area between the normative and the prerogative state structure. All the legal regulations (e.g., the TVG system and repentance laws) and the extraordinary situations created in law (e.g., OHAL rule and decrees, the TMK) were, in fact, carried out as the work of *raison d'état* to wage an urgent fight against the PKK. Accordingly, the enforcement of measures against the PKK took time under the ordinary functioning of the state, bound by rule *of* law principles. In this regard, creating extra-ordinary legalities for the military and executive bodies served to immediately eliminate the PKK threat even if these legalities transcended the principles of law and expanded arbitrary enforcement and impunity for the state officials. The question here is: Why did the state need or cooperate with paramilitary forces while having already given so much authority to its official forces to combat terrorism?

It is easier to answer this question when considering the semi-official village guards and special police teams deployed in northern Kurdistan. Both forces were actually recruited to compensate for the state's infrastructural incapacity in northern Kurdistan. First, village guards were useful for their local knowledge and cooperation during military operations against the PKK. The Village Guard System was also effective in distinguishing between foe and friend among Kurdish citizens in the state mindset. Second, the deployment of specially trained PÖH teams was critical in strengthening the warring capacity of the state within small-unit operations against the PKK.

However, it is not easy to answer this question when considering the informal establishment of Hizbullah and JİTEM as two pro-state paramilitary organizations. First, with its predominantly Kurdish Sunni Islamist militants, Hizbullah carried out its actions in northern Kurdistan against PKK sympathizers and opponents of government policies. As Human Rights Watch reported, Hizbullah was killing people in broad daylight "at the rate of two a day; in all, more than a thousand people were killed in street shootings from 1992 to 1995" (Human Rights Watch, 2000). Hizbullah's actions with its never-captured perpetrators often suggested that it was a state-supported organization. It was again *İkibin'e Doğru* that first reported on the cooperation between Hizbullah and the state based on interviews with eyewitnesses and sympathizers of Hizbullah. According to their testimony, militants of the organization were trained in the headquarters of the Riot Squad (*Çevik Kuvvet*) of the Turkish National Police in Diyarbakır (İkibin'e Doğru, 1992a, pp. 8–12). The article was published anonymously in the magazine, but the journalist who made the report, Halit Güngen, also fell victim to murder by an unknown perpetrator on 18 February 1992, two days after the article was published, like many other journalists working on the collaboration between Hizbullah and the state in the following period. Second, unlike Hizbullah, JİTEM was directly created within the state and attended by state officials taking advantage of the legal loopholes in the OHAL region. In this sense, together with the alleged responsibility of many extra-judicial killings and enforced disappearances in the region, JİTEM fit well into the gray area between the law-making and law-preserving powers of the state.

Although both organizations' nexus with the state has been emphasized in many journalistic studies, parliamentary reports, individual accounts, and case records, this relationship has been long denied by the state. This denial was plausible in a way since both organizations were not established by an official state decree. It was also favorable for the state to conceal its nexus with the pro-state militias since both organizations stood out for their role in many atrocities against dissident civilians, mostly committed in northern Kurdistan.

In the following section, I will provide a general profile of JİTEM in terms of its organizational structure and activities before tracing the organization in JİTEM-related actors' personal accounts in the following chapters. Since JİTEM is not yet officially a fully revealed organization at the time of writing this thesis, all of the information and analyses in this section have been compiled according to journalistic research, parliamentary reports, memoirs, and trial indictments. I must note that the information produced on JİTEM increased after the Susurluk Scandal in 1996 and the Ergenekon

Investigation in 2007, both of which have ignited the deep state discussion in Turkey by revealing the clandestine relationships between state, military, and organized crime actors.

3.3.1. Formation of JİTEM

One of the most controversial issues regarding JİTEM is its establishment date. The first media coverage of JİTEM was published in *İkibin'e Doğru* on 21 June 1992. In the news, a military major (Hüseyin Ateş) and an unnamed noncommissioned officer, who stated that they had served in JİTEM, made detailed confessions that some officers serving in the Southeast were engaged in drug and weapons trafficking. The noncommissioned officer answered the magazine reporter's question, "What is JİTEM? (*JİTEM nedir*?)," as follows: "It was first established in 1938. Back then, the name was different. But later, it was removed. I think it was rebuilt in 1986 or '87."[32]

What exactly the officer meant by the year of 1938 is not clear in the report. However, it is known that the Turkish Gendarmerie Institution was reorganized between 1937 and 1939 with the enactment of the Gendarmerie Organization and Duty Regulations (*Jandarma Teşkilat ve Vazife Nizamnamesi*) (Jandarma Genel Komutanlığı, n.d.). Soner Yalçın, the reporter for this article, which was published anonymously in the magazine, later explained in his book on Major Ersever's confessions published in 1994 that the officer had actually referred to the instruction about the elimination of banditry and the recruitment of informants within the Regulations (Yalçın, 2003, p. 30).

Apart from this initial statement, many journalistic works, personal accounts, and parliamentary reports agree that JİTEM was unofficially created in 1987 under the domain of the JAK. The most explicit information about the establishment date of JİTEM was presented in the report "History of Gendarmerie Intelligence Group and Teams (*Jandarma İstihbarat Grup ve Timlerinin Tarihçesi*)" prepared by Gendarmerie Staff Major Canfer Balçık on 11 November 1993. The top-secret document was unearthed and published by the pro-AKP *Sabah* newspaper on 7 March 2009, while JİTEM discussion was ongoing within the scope of the Ergenekon investigation that turned into a showdown between the AKP government and the army (Sabah, 2009; Demiröz, 2016, p. 215).

[32] "İlk kez 1938 yılında kuruluyor. Adı değişik o zamanlar. Fakat sonra kaldırılıyor. Sanıyorum 1986 veya 87 yılında tekrar kuruluyor" (İkibin'e Doğru, 1992b, p. 11).

The report overtly stated 27 August 1987 as the establishment date of JİTEM. The report also confirmed JİTEM's relationship with the JAK with this sentence: "Gendarmerie Intelligence and Counter-Terrorism Teams were assigned to the Operations branch of the Gendarmerie Public Security Command on 14 September 1987 and were placed under the full command of it in November 1988."[33] Although the official information within this document confirmed the presence of JİTEM within the JAK in the OHAL region, the Chief of the General Staff continued to deny that there was a unit called JİTEM within the TSK (Radikal, 2009).

I argue that the contradiction between Balçık's report and the General Staff's denial confirms the arbitrary functioning of the state in the OHAL region. Accordingly, it is not possible for the General Staff, which is bound to the principle of the rule *of* law within the normative state understanding, to accept the existence of JİTEM, which was informally established with the rule *by* law principle within the prerogative state understanding of the emergency legislation. However, Balçık's report emphasizing the relationship between the JAK and JİTEM confirms that JİTEM emerged as a result of the dual state structure created by the OHAL rule.

It is also possible to observe the prerogative state approach behind JİTEM's formation in parliamentary research reports. For instance, the Susurluk Report by the Prime Ministry Inspection Board underlined that the existence of JİTEM did not constitute a fault because it was born out of a need in the fight against the PKK (Savaş, 1998, p. 25). According to the report, JİTEM was created to coordinate the dispatching and supervision of PÖH teams deployed in the OHAL region with their extra-legal arbitrary activities in the region (Savaş, 1998, p. 25). However, as we shall see, two prominent figures, Cem Ersever and Arif Doğan, alleged to be founders of JİTEM, reasoned the *necessity* emphasis behind the creation of the organization in a different way.

Both the reports on the Susurluk Scandal by the TBMM in 1997 and the Prime Ministry Inspection Board in 1998 and the TBMM Report on Military Coups in 2012 showed Gendarmerie Officer Cem Ersever as the founder of JİTEM (Türkiye Büyük Millet Meclisi, 1997, p. 237; Savaş, 1998, p. 25;

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[33] "Jandarma İstihbarat ve Terörle Mücadele Timleri, 14 Eylül 1987 tarihinde Jandarma Asayiş Komutanlığı Harekat komutasına, Kasım 1988 tarihinde de emrine verilmiştir" (Demiröz, 2016, p. 215).

Türkiye Büyük Millet Meclisi, 2012, p. 125). As I will detail through the personal accounts of Ersever in Chapter 5, he had already admitted to being the founder of JİTEM in an interview published in pro-socialist *Aydınlık* newspaper on 11 June 1993 with these words: "I am the founder and boss of JİTEM" (H. Çiçek & Yalçın, 1993, p. 11). Likewise, retired Colonel Arif Doğan also declared himself as the founder of JİTEM and even wrote a book with the title "*JİTEM'i Ben Kurdum* (I Founded JİTEM)" (Arif Doğan, 2011). In both actors' narratives, the creation of JİTEM was necessary because the gendarmerie intelligence units, which were only authorized to gather intelligence, were inadequate in the fight against the PKK. With JİTEM, these units also gained illegal operation authority to carry out operations regarding provided intelligence without transmitting the information to the legal units authorized to act upon it.

In addition to JİTEM's illegal operation authority, the Parliamentary Report on Unsolved Political Murders in 1995 revealed that JİTEM's intelligence authority was also in conflict with the existing laws. This report defined JİTEM as an intelligence agency under the JAK Command, which gathered information on terror activities as the first priority and on drug and arms trafficking as the second priority (Türkiye Büyük Millet Meclisi, 1995, p. 57). However, it added that gendarmerie units had no legal intelligence authority for terrorism activities. As underlined in the report, this authority had actually been granted to the MİT with Article 4 of Law on State Intelligence Services and National Intelligence Organization No. 2937 (*2937 Sayılı Devlet İstihbarat Hizmetleri ve Milli İstihbarat Teşkilatı Kanunu*) in 1983. Accordingly, gendarmerie units were only authorized to gather intelligence on drug and arms trafficking (Türkiye Büyük Millet Meclisi, 1995, p. 57). This contradictory situation between the Gendarmerie and MİT's intelligence authorities was concluded in the report as showing JİTEM as "a good example" to explain the unlawful and arbitrary attitudes of the state bodies going beyond their duties and powers delimited by the general law by taking advantage of some legal gaps in the OHAL region (Türkiye Büyük Millet Meclisi, 1995, p. 57).

Another uncertain issue is whether or not JİTEM has been deactivated and, if so, on what date. The accounts of both Ersever and Doğan agreed that JİTEM was illegally created to be tested within the JAK in the OHAL region, and Doğan added in a television interview in 2011 that he deactivated this temporarily created organization in 1990 (32. Gün, 2011). I will give the details of this television interview in Chapter 4, but I should mention here that the verb chosen by Doğan to describe the deactivation of JİTEM in this interview was quite confusing. In Doğan's words, he did "freeze" JİTEM to be "reactivated" if needed. In this sense, it is still not possible to ascertain

whether JİTEM continues to exist. However, the many personal accounts in the following chapters convey that JİTEM has continued its activities after 1990.[34]

3.3.2. Organizational Structure of JİTEM

In order to define the paramilitary position of JİTEM in terms of its relationship with the state and state officials, it is crucial to look into its organizational structure. The report published by the Parliamentary Commission for Inquiry into Military Coups in 2012 included a crucial sentence about the organizational structure of JİTEM. Accordingly, the "Special Warfare Department (ÖHD)'s organizational structure was taken as an example in the creation of JİTEM" (Türkiye Büyük Millet Meclisi, 2012, p. 151). With this specification, the report actually referred to the fact that JİTEM was composed of military and civilian personnel just like the ÖHD. Indeed, considerable journalistic research, parliamentary reports, and personal accounts and confessions on JİTEM confirmed that JİTEM consisted of both military and civilian cadres. However, at the same time, these accounts revealed that JİTEM differed from the ÖHD in terms of the civilian cadres' operational characteristics.

As explained in Chapter 2, the ÖHD's civilian wing, the so-called *white forces*, consisted of nationalist informants from various professional groups all around the country. These informant groups came together on the instruction of the ÖHD and acted as civil mobs in an operational sense, as seen in the İstanbul Pogrom on 6–7 September 1955. However, these civil mobs would not have participated in operations together with the military wing of the ÖHD. Just like the ÖHD, the Gendarmerie Intelligence Service (JİT: *Jandarma İstihabarat Teşkilatı*) also had an informant network across the country. As I will detail in Chapter 4, Arif Doğan even confessed that this network consisted of 10,000 people (32. Gün, 2011). However, besides informants, JİTEM also

[34] The last incident that echoes the continuity of JİTEM activities took place in the Şemdinli district of southeasternmost Hakkari province in 2005. On 9 November 2005, Umut Bookstore in Şemdinli was attacked by grenades, during which one person died and five were injured. Three attackers, who were caught by local residents while trying to escape, then turned out to be JİTEM personnel. Among them, two were noncommissioned officers and the one was a PKK defector. The locals then searched the captured attackers' car and found several weapons, grenades, and a death-list of alleged PKK sympathizers. Although three attackers were later arrested and tried, the case resulted in acquittal for the three defendants in 2012 (Bilen, 2019).

recruited village guards and PKK defectors who had benefitted from repentance laws, as well as ultra-nationalist hitmen who carried out joint operations with JİTEM's military wing, unlike the ÖHD operations (Kılıç, 2009, p. 31).

Another difference from the ÖHD stemmed from the status of the Gendarmerie Command in Turkey. According to Article 4 of Law on the Organization, Duties, and Authorities of Gendarmerie No. 2803 (*2803 Sayılı Jandarma Teşkilat, Görev ve Yetkileri Kanunu*):

> The Gendarmerie General Command is a part of the Turkish Armed Forces, and its duties related to the Armed Forces are subordinate to the General Staff in terms of education and training, and to the Ministry of Internal Affairs in terms of security and public order affairs and other duties and services. However, the Gendarmerie General Commander is responsible to the Minister of Internal Affairs.[35]

In other words, this article positioned the status of the Gendarmerie in a place between the General Staff and the Ministry of Internal Affairs.[36] Since the main responsibility of the TSK was and is to defend the country against foreign threats, Article 4 has since 1983 expanded the intervention area of the army against domestic threats, too (Aksoy, 2010).

Crucially, making the Gendarmerie General Commander accountable to the Minister of Internal Affairs had a further strategic purpose in terms of freeing the Gendarmerie Command – and, thus, the TSK, because of gendarmerie activities – from NATO control (Pekmezci, 2017, p. 32). Therefore, it can be said that both the operational autonomy of the Gendarmerie – as the local hand of the TSK – and the legal loophole in the OHAL region were effective in the creation of the informal JİTEM within the JAK.

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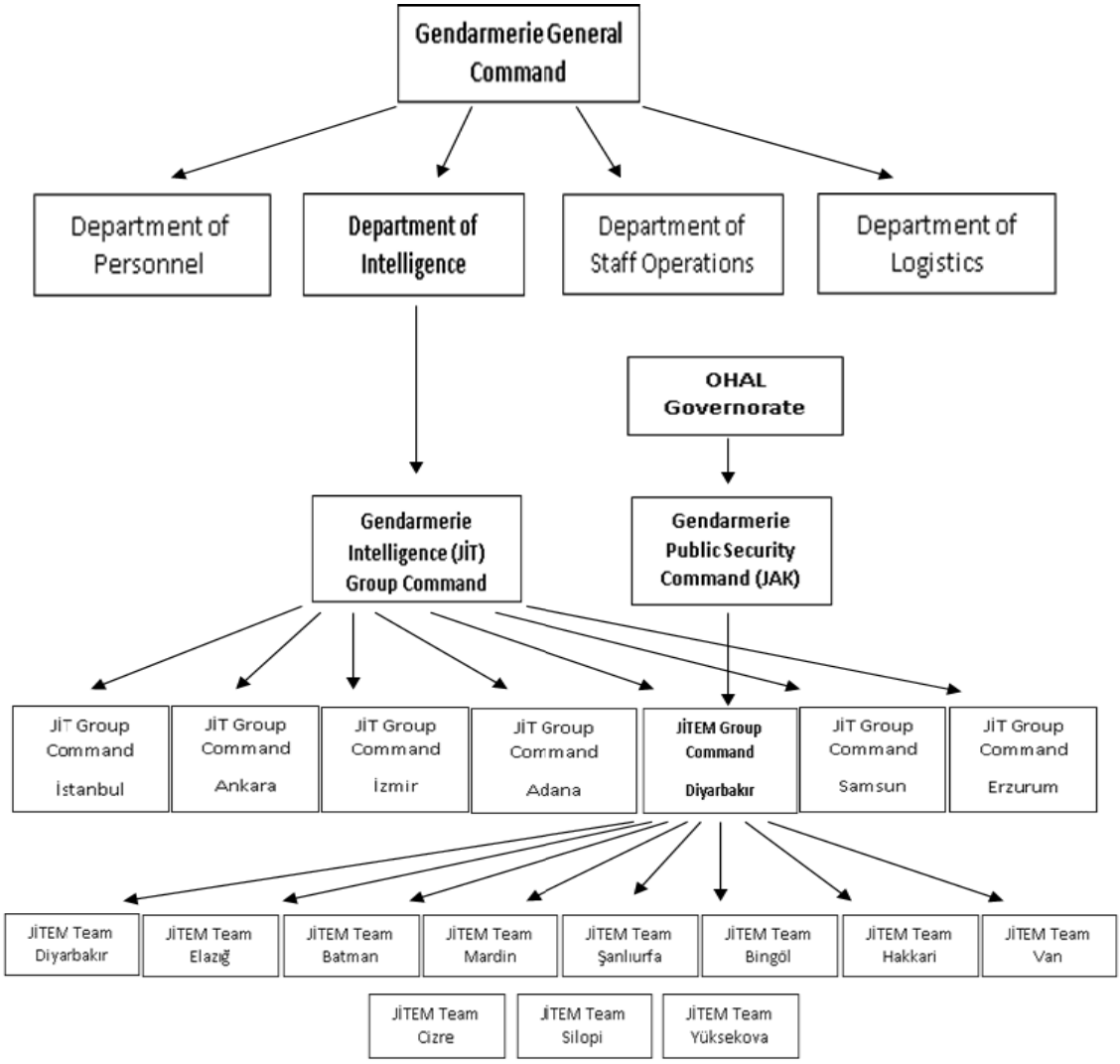
[35] Madde 4: "Jandarma Genel Komutanlığı, Türk Silahlı Kuvvetlerinin bir parçası olup, Silahlı Kuvvetlerle ilgili görevleri, eğitim ve öğrenim bakımından Genelkurmay Başkanlığına, emniyet ve asayiş işleriyle diğer görev ve hizmetlerin ifası yönünden İçişleri Bakanlığına bağlıdır. Ancak Jandarma Genel Komutanı, Bakana karşı sorumludur" (Jandarma Teşkilat, Görev ve Yetkileri Kanunu, 1983)

[36] The Turkish Gendarmerie Command came under the full authority of the Ministry of Internal Affairs with Decree No. 668 in 2016.

Figure 3.1 below demonstrates the organizational structure of the JİT and the location of JİTEM within this body. In 1983, the Gendarmerie General Command decided to gather its intelligence units, scattered between the Gendarmerie Headquarters and provincial gendarmerie commands until that time, under a single roof. As a result, the Gendarmerie Intelligence Group Command (JİGK: *Jandarma İstihbarat Grup Komutanlığı*) affiliated with the Gendarmerie Department of Intelligence was officially formed by Major Arif Doğan in 1983 (Kılıç, 2009, p. 37). Furthermore, Doğan established seven provincial JİT group commands (see Figure 3.1) and a total of twenty-four local teams affiliated with these provincial commands under the control of the JİGK (Kılıç, 2009a, p. 38; Arif Doğan, 2011, p. 18). From the JİGK to local teams, the only authority of the structure was to gather intelligence on the smuggling of drugs, weapons, foreign exchange, and historical artifacts (Kılıç, 2009, p. 38). However, with the establishment of the OHAL Governorate and JAK in northern Kurdistan in 1987, the JİT Group Command in Diyarbakır was illegally transformed into the JİTEM Group Command.

Figure 3.1: Organizational Structure of JİTEM[37]



As will be detailed in the following chapters with personal accounts, JİTEM, organized under the JAK, had three main characteristics that made it informal. First, it had no legal status within the gendarmerie body stipulated by any state law. Second, while its jurisdiction was limited to smuggling activities, it expanded its intelligence work to counter-terrorism.[38] Third, JİTEM not only functioned as an intelligence unit but also acted illegally as an operational unit.

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[37] I created this figure by interpreting the accounts of Major Cem Ersever, Colonel Arif Doğan, and repentant Abdülkadir Aygan in the following sources: Ağaşe, 2003; Yalçın, 2003; Kılıç, 2009; Çiçek, 2009a; Doğan, 2011; Demiröz, 2016.

[38] JİT gained a legal intelligence authority over terrorist activities with Law Concerning Amendments to

The JİTEM unit in Diyarbakır also formed local teams in almost every province and some strategically important border districts of the OHAL region like Silopi, Cizre, and Yüksekova (see Figure 3.1). Each provincial group command was headed by a captain or a lieutenant, and teams consisted of two officers or two or three noncommissioned officers (Kılıç, 2009, p. 38). The JİTEM Group Command and teams also recruited village guards, repentants, and hitmen for their activities. The expenses of JİTEM and its civilian cadre were covered by the OHAL Governorate's allowance (Demiröz, 2016, p. 99). According to the claim of repentant Abdülkadir Aygan, Tansu Çiller was the most significant supporter of JİTEM. Accordingly, Çiller assured then JAK Commander Hasan Kundakçı that she would provide JİTEM with all kinds of financial and legal support (N. Çiçek, 2009a, p. 259). The table below shows the list of military officials who headed the JİTEM Group Command in Diyarbakır.

Table 3.4: JİTEM Group Commanders in Diyarbakır[39]

NAME	**YEARS OF DUTY**
Arif Doğan	1987–1990
Cem Ersever	1990–1991
Nurettin Ata	1991–1992
Cahit Aydın	1992–1993
Abdülkerim Kırca	1993–1994
Ali Yıldız	1994–1995
Cemal Temizöz	1995–1998

Interestingly, Aygan also alleged that there were some common characteristics among the JİTEM Group Commanders:

Some Laws No. 5397, accepted on 3 July 2005. This law authorized the gendarmerie intelligence branch to carry out technical stakeouts within the scope of counter-terrorism (Beşe, 2006a, pp. 182–183).

[39] The data in this table were obtained from information in the following sources: İkibin'e Doğru, 1992; Şahan & Balık, 2004; Kalkan, 2006; Çiçek, 2009b, 2009a; T.C. Diyarbakır Cumhuriyet Başsavcılığı, 2009. Data after 1998 could not be obtained.

> All of these officers were selected from those who actively took part in the Idealist Hearths and similar organizations or shared the same nationalist opinion during their youth. All of them have undergone commando training and private courses in the Foça district of İzmir, and many of them have received private courses in America and other countries. They are connected to the Special Warfare Department in Turkey.[40]

Since the ÖHD and JİTEM have not been fully clarified in terms of their activities and actors, it is not possible to ascertain the link between these two at the time of the writing of this thesis. However, Cem Ersever's biography and accounts in Chapter 5 substantially confirm Aygan's above claim.

Hence, we can surmise that the continuity that I analyzed in Chapter 2 between the *Fedai* Branches, TM, and ÖHD in terms of state profiles and COIN policies is also valid for JİTEM. Accordingly, although the relationship of all these paramilitary groups with the state changes over time in informal and semi-official forms, these changes actually represent a strategic transformation rather than disconnected change. In this regard, both the specification placed on the Parliamentary Report on Military Coups (2012) about the similarity between the organizational structures of the ÖHD and JİTEM and the above account of Aygan stating the connection of JİTEM officials with the ÖHD allude to this strategic transformation. Accordingly, the countrywide anti-communist and anti-minority policy of the ÖHD in a semi-official paramilitary formation updated itself for the more specific Kurdish question in the informal formation of JİTEM.

According to the top-secret report of Major Canfer Balçık in 1993, the gendarmerie intelligence structure was reorganized in 1991. Accordingly, the main JİGK body was dissolved on 18 July 1993 and two provincial JİGK bodies were established, one in Ankara (with two teams) and the other in Diyarbakır (with six teams). The report also stated that an intelligence team for each province was formed in İstanbul, İzmir, and Adana under the Gendarmerie Regional Commands

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[40] "Bu subayların hepsi de gençlik dönemlerinde Ülkü Ocakları ve benzeri örgütlerde faal olarak yer almış veya aynı görüşü paylaşmış olanlardan seçilmişlerdir. Hepsi de İzmir Foça'da komando eğitimi ve özel kurslardan geçmiş olup, birçoğu da Amerika ve başka ülkelerde özel kurslar görmüşlerdir. Türkiye'deki Özel Harp Dairesi'ne bağlıdırlar" (Çiçek, 2009a, p. 159).

(Demiröz, 2016, p. 215). This information indicates that JİTEM was dissolved in 1991, as Arif Doğan also claimed. However, the following agency-focused chapters (Chapters 4, 5, and 6) will discuss actor accounts and documents suggesting that JİTEM activities continued after 1991. Before analyzing these accounts, however, the following section will present a brief description of JİTEM activities.

3.3.3. Activities of JİTEM

Although JİTEM, as its name (Gendarmerie Intelligence and Counter-Terrorism) suggests, was created with counter-terrorism as its aim, its activities are mostly associated with death squad actions against civilians. However, the allegations in trial indictments and individual testimonies and confessions could not be turned into evidence for an effective court process. As I will detail in Chapter 7, three of the five JİTEM trials, in fact, resulted in impunity, at least at the time of writing this thesis.

The first statements about JİTEM's illegal activities and its relationship with PKK defectors and village guards appeared in the Parliamentary Commission Reports on Unsolved Political Murders in 1995, followed by the Susurluk Scandal in 1997 and the Susurluk Report by the Prime Ministry Inspection Board in 1998. The first two reports concluded that "We fail to understand the nature of JİTEM's activities" (Türkiye Büyük Millet Meclisi, 1995, p. 57) and "We have not been able to establish JİTEM's exact duties. Although JİTEM's existence is being debated, there is no doubt that its actions are for real" (Türkiye Büyük Millet Meclisi, 1997, p. 315).

The confusion about JİTEM activities in both reports stems from the organization's illegal existence within the gendarmerie body and the silence of the relevant institutions on this issue. The second reason was explicitly emphasized in the Parliamentary Susurluk Report as follows: "The reason for not making any investigation about this structure [*JİTEM*] is that the relevant institutions indirectly obstruct the enlightenment of the facts by remaining silent" (Türkiye Büyük Millet Meclisi, 1997, p. 364).

The first most detailed information about JİTEM and its activities was obtained by the Prime Ministry Inspection Board. A Syrian-Kurdish PKK defector, İbrahim Babat, made confessions about JİTEM while he was in prison for attempted murder to both the Prime Ministry Inspection

Board and the İstanbul DGM responsible for the Susurluk investigation with a letter dated 17 December 1997 (N. Çiçek, 2009b, p. 133). However, the twelve-page letter, which I will detail later in this chapter, was censored within the Susurluk Report of the Inspectorate Board on the grounds that it was a state secret. This letter was also later used as evidence in the file of the Main JİTEM Trial in Diyarbakır (Duvaklı, 2010, p. 202).

Apart from this initial information about JİTEM activities in state reports, JİTEM crimes have been characterized as murder, bomb attacks, torture, and kidnapping in various indictments of JİTEM during the judicial process that has been ongoing since 1999 (T.C. Diyarbakır Cumhuriyet Başsavcılığı, 2009, 2013; T.C. Ankara Cumhuriyet Başsavcılığı, 2013; T.C. Mardin Cumhuriyet Başsavcılığı, 2014; T.C. Midyat Cumhuriyet Başsavcılığı, 2014). However, personal accounts in various newspapers, trial files, and books show that organized crime activities such as racketeering and drug and arms trafficking should also be included among JİTEM crimes. The following is an itemized account of JİTEM's death squad and organized crime activities.

Death Squad Activities

As previously seen in Table 3.3, the 1990s witnessed a dramatic increase in the rate of murders by *unknown perpetrators*. The Parliamentary Report on Unsolved Political Murders linked the fact that the vast majority of these murders were committed in the OHAL region to the irregular and arbitrary practices of state officials prevailing in the region (Türkiye Büyük Millet Meclisi, 1995, p. 3). Indeed, the state-given impunity by emergency decrees transformed them from *state actors who committed murders on behalf of the state* to *state actors who committed murders by state means*. I observe this transformation in JİTEM's creation and actions in the region: The Gendarmerie Intelligence Group Command (JİGK) in Diyarbakır unlawfully gained the extra title "counter-terrorism" and became JİTEM; however, the arbitrarily created JİTEM directed its actions against civilians rather than the PKK fighters.

As a death squad, the primary activity of JİTEM was to carry out extra-judicial killings against certain people. Personal accounts and confessions about JİTEM's death squad operations reveal that these killings had three different purposes. Since none of these murders associated with JİTEM have yet been made public by the judiciary, I will explain these three types of killing as alleged murders.

The acts in the first category were alleged high-profile target killings. As the repentant Aygan explained in an interview in 2006, the primary purpose of these deliberate murders was to intimidate people who had similar thoughts as those killed (Kalkan, 2006, p. 80). In this sense, the victims of these murders were mostly Kurdish politicians, human rights defenders, and journalists. For example, as Bruinessen pointed out in his article published in 1996, "[d]uring the four years that the HEP and DEP existed (1990-94), no fewer than 64 of their leaders and prominent members were assassinated" (Van Bruinessen, 1996, p. 20). The most publicized murders that resulted in a public outcry in this category were the killings of the Kurdish politician and human rights lawyer Vedat Aydın on 7 July 1991 and the seventy-two-year-old Kurdish intellectual and author Musa Anter – also known as Apê Musa in Kurdish, or Uncle Musa – on 20 September 1992. Also, eight reporters and nineteen distributors of pro-Kurdish publications were killed between 1992 and 1993 in northern Kurdistan (Türkiye Gazeteciler Cemiyeti, 2016; T24, 2017).

The second category of death squad activities was alleged false-flag murders committed to creating public antipathy against the PKK. Accordingly, as they knew the Kurdish language and geography well, repentant JİTEM recruits dressed like PKK guerrillas and participated in violent operations against civilians. The aim here was to make it appear that the PKK had committed these acts and break the public sympathy for the PKK (Demiröz, 2016, pp. 96–97).

The last category of murders comprised so-called *dispute and silencing* killings. The victims of such murders were low-ranking soldiers who were aware of and opposed JİTEM's illegal activities and high-level military officials looking for peaceful ways to confront the PKK and the overall Kurdish problem. The best known alleged high-profile murders were those of General Commander of the Turkish Gendarmerie Eşref Bitlis in a helicopter crash on 17 February 1993, Gendarmerie Regional Commander in Lice (Diyarbakır) Bahtiyar Aydın on 22 October 1993, and Colonel Rıdvan Özden in Mardin on 12 August 1995. The most ironic victim of these *murders with unknown perpetrators* was Major Cem Ersever himself. As I will detail in Chapter 5, Ersever was killed on 4 November 1993, shortly after he started to give interviews about JİTEM in 1993. Ersever's murder, too, has not been resolved at the time of this writing.

The first comprehensive confessions about the nature of JİTEM's extra-judicial killings belonged to İbrahim Babat. Babat had served in JİTEM's Silopi Team led by Cem Ersever as a PKK defector

turned informant between 1988 and 1993 (Opçin, 2008, p. 20). In 1997, Babat made striking confessions about JİTEM's authority to kill in his statements to the Prime Ministry Inspection Board responsible for the Susurluk Inquiry:

> We had the authority to execute everyone we suspected of being related to the PKK in and around Diyarbakır. Instead of capturing these people and bringing them to justice if they were guilty, we adopted killing them in a *perpetrator-unknown* [*emphasis is mine, Ed.*] way as a method. We were instructed to do it like this [*by JİTEM*].[41]

This expression was a clear confession of the extra-judicial operation of JİTEM as a death squad in the OHAL region.

How were the murders committed? It is possible to find the most detailed answer to this question within Aygan's confessions. As he stated, murders were being carried out by kidnapping and illegal detention methods. Since white Renault 12 Taurus vehicles were used in these kidnapping activities, these vehicles have been closely identified with JİTEM's death squad activities in northern Kurdistan under the name of *Beyaz Toros* (White Taurus). The center of the killings was the JİTEM building in the Saraykapı district of Diyarbakır (Şahan & Balık, 2004, p. 61). The kidnapped people were interrogated there under torture and then executed. Aygan explicitly stated that a person questioned in the Saraykapı JİTEM building would never have been left alive. After the execution, the bodies were taken by JİTEM vehicles and thrown into a suitable place in Diyarbakır or its vicinity (Şahan & Balık, 2004, p. 62).

This section has briefly described JİTEM's death squad operations in the most general sense. Since it is only possible to get detailed information about JİTEM's extra-judicial killings from witness and perpetrator accounts, I will re-refer to these activities in the following agency-centered chapters. Let us now turn to JİTEM's organized crime activities.

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[41] "Diyarbakır ve çevresinde PKK ile ilgili olduğundan şüphelendiğimiz hemen herkesi infaz etme yetkimiz vardı. Bu insanları yakalayıp suçları varsa adalete teslim etmek yerine faili meçhul bir şekilde öldürmeyi bir yöntem olarak benimsemiştik. Bizden istenen buydu" (Opçin, 2008).

Organized Crime Activities

High-ranking military figures and self-professed JİTEM founders Colonel Arif Doğan and Major Cem Ersever alleged that due to the inclusion of PKK defectors and village guards in the organization, JİTEM eventually got out of control and involved itself in organized crime (Yalçın, 2003; Arif Doğan, 2011). Accordingly, these civilian groups started to act for their own interests over time, branching out into racketeering activities, kidnapping, and ransom demands in exchange for the lives of kidnapped people. This is partly true looking at the accounts of PKK defectors and village guards on the activities of their colleagues in JİTEM; however, that is not sufficient to cover up the responsibilities of military officials in the illegal activities of these civilian recruits and, more broadly, in drug and weapon smuggling.

Indeed, the first report on JİTEM in the *İkibin'e Doğru* magazine in 1992 also mentioned JİTEM's role in drug and weapon trafficking. According to the unnamed noncommissioned officer's accounts in the report, the greatest responsibility for JİTEM's lack of control belonged to the profit-seeking JİTEM Team Commands serving at border posts (İkibin'e Doğru, 1992b, pp. 8–9). As visualized in Map 3.3 below, the three prominent districts along JİTEM's smuggling route were Cizre, Silopi, and Yüksekova, located on the borders of Syria, Iraq, and Iran.[42]

[42] Silopi and Cizre are two districts where the PKK started its armed struggle. These two Kurdish districts are also the places where the paramilitary violence against civilians was the most intense in the notorious 1990s. Cizre has the highest number of enforced disappearances and Silopi ranks second (Göral et al., 2013, p. 31).While human rights violations in Silopi were mostly associated with Silopi JİTEM Team Commander Captain Cem Ersever (1989–1990), the incidents in Cizre were associated with Cizre JİTEM Team Commander Captain Cemal Temizöz (1993–1995).

Map 3.3: Locations of Cizre, Silopi, and Yüksekova Districts in Turkey

According to the officer, JİTEM Team Commanders were free to form their teams, and, over time, they began to choose military personnel, PKK defectors, and village guards who would serve their economic interests instead of fighting the PKK (İkibin'e Doğru, 1992b, p. 8). The officer stated that drugs coming to the Turkish border were transported to the inner regions by JİTEM vehicles because these cars would not be searched at any search point after the personnel within the car showed their JİTEM identification documents. As explicitly stated in the report, the military officers carried out the smuggling activities in close collaboration with PKK defectors and village guards. The noncommissioned officer also noted that the responsible parties of the commercial network of heroin entering Turkey were the chiefs of tribes within the TVG system (İkibin'e Doğru, 1992, p. 8–9).

Another smuggling area that JİTEM was interested in was weapons. The officer alleged that JİTEM personnel did not officially register the weapons and ammunition seized in secret shelters in the region but rather sold them. The most striking statement made by the officer was related to the purchasers of these weapons. The officer confirmed that JİTEM sold these weapons to the PKK and Peshmerga forces in northern Iraq, despite its counter-terrorism purpose (İkibin'e Doğru, 1992b, p. 10). The officer also asserted that JİTEM made a big haul for weapons trafficking during the Gulf War in 1991. As the officer explained, 500,000 Iraqi Kurds had taken refuge in Turkey during the war in 1991. As routine practice, the gendarmerie seized the weapons that came with these people crossing the border. Although a total of 200,000 weapons were collected from the refugees, JİTEM registered only 1600 of them and retained the remaining weapons for smuggling activities (İkibin'e Doğru, 1992b, p. 10).

The Parliamentary Report on the Susurluk Scandal also gave a place to JİTEM's drug trafficking activities. Noncommissioned Officer Hüseyin Oğuz testified to the Parliamentary Commission for Inquiry into the Susurluk Incident on 18 February 1997 that the JİTEM hitman Yeşil was the person who directed the drug trafficking in Yüksekova on the border with Iran (see Map 3.3). Accordingly, drugs were processed in Yüksekova and then transferred to Van province by Yeşil's car. The processed drugs were transferred to İstanbul for sale and other marketing activities. Oğuz alleged that it was Yeşil who arranged the whole network among security forces to ensure that the drug trafficking proceeded without any problems (Türkiye Büyük Millet Meclisi, 1997, p. 230).

PKK defector Kahraman Bilgiç and military officer Hüseyin Oğuz had already started a collaboration for the disclosure of JİTEM activities in Yüksekova in 1996. The testimonies and confessions of the two would also initiate a trial process on the publicly known "*Yüksekova Çetesi* (Gang of Yüksekova)" or "*Uniformalı Çete* (Gang in Uniform)" in 1996. However, the trial, where military and police officers, PKK defectors, and mayors were being indicted, resulted in impunity in 2005 despite all confessions and testimonies (T24, 2010).

3.4. Discussion

Considering this chapter together with Chapter 2 focusing on the historical and legal legacy of paramilitarism in Turkey, Walter Benjamin's eighth thesis on the concept of history holds true for the Kurdish experience in the country. "The tradition of the oppressed," notes Benjamin, "teaches us that 'the state of emergency' in which we live is not the exception, but the rule" (Benjamin, 2007, p. 257).

Indeed, the post-1980 process explored in this chapter had many similarities with the previous chapter in terms of the continuity of the dual state structure – so much so that it was possible to observe the legacy of the Hamidiye Regiments of the 1890s in the TVG system a century later; the legacy of the CUP's Amnesty Laws in the Repentance Laws. Nevertheless, the most appropriate example from Benjamin's point of view is the *state of emergency* rule between 1987 and 2002, which was actually the revival of the Inspectorates-General administration of 1927–1952.

All these continuities within state practice illustrate the banalization of *states of exception*, or, in Leonard Fieldman's words, "prosaic politics of emergency" over the Kurdish population, which denotes the transformation of exceptional governing into an ordinary practice on the basis of "community caretaking" (Feldman, 2010; Gökarıksel & Türem, 2019; Yılmaz, 2019). Indeed, all of the COIN strategies discussed in this chapter have been put into force with the motive of an urgent response to PKK violence on the basis of the provision of national security. As this chapter has explored, this immediate call-to-action has been realized on the thin line between the rule *of* law and rule *by* law.

The Turkish state's exceptional treatment of both the Kurdish population and region well exemplifies how the state of emergency practices became prosaic in the country's history between normative and prerogative state structures. This chapter has deconstructed JİTEM as an informal pro-state paramilitary organization standing right there on the thin line between the rule *of* law and rule *by* law. Accordingly, the dual state structure, which was built up in northern Kurdistan with the formation of OHAL rule, facilitated the illegal formation and functioning of JİTEM within the state.

According to the accounts mentioned in this chapter, JİTEM was born out of a necessity to achieve more effective results in the fight against PKK terrorism, but it got out of control over time. As will be elaborated through individual accounts in the following three chapters, this narrative forms the basis for the sterilized version of denial or acceptance discussions regarding JİTEM's existence and activities. However, this narrative could not prevent the counter-statements alleging that JİTEM carried out death squad activities against civilians rather than fighting the PKK and was involved in organized crime activities for the benefit of its members.

Chapters 2 and 3 mostly focused on the establishment of the Turkish state's dual state structure between its normative and prerogative state approaches, and also between its legal and deep state functioning. In this regard, both chapters laid the groundwork to understand the formation and reorganization of paramilitary violence in Turkey not only with its historical steps but also with its legal modifications and justifications. However, it only provides half of the necessary narrative to gain complete insight into the paramilitary relationship that the state has established with society or with militants in a contractual manner.

Hence, in order to complete the other part of this narrative, Chapters 4, 5, and 6 will add an agency-centered perspective to the analysis of the phenomenon of contractual violence. As such, the following chapters, in light of the JİTEM example, will focus on how contractual violence conducted by the state through an impunity assurance was interpreted, confirmed, or rejected by the perpetrator side of this contract.

4. Between Denial and Tacit Admission: Plausible Deniability of JİTEM

4.1. Introduction

Structure-centered Chapters 2 and 3 explored the historical and legal legacy of the Turkish state, which has continuously generated semi-official or informal relationships with pro-state paramilitary groups. Chapters 4, 5, and 6 will constitute the agency-centered part of this thesis. The main goal of these chapters is to shed light on the agency part of *contractual violence* to understand how JİTEM agents benefitted from this impunity-granting contract – sometimes tacit and sometimes evident in legal texts – and became law-making paramilitary agents in the prerogative functioning of the state in northern Kurdistan. In doing so, I will dissect the accounts, testimonies, and confessions of the actors who contributed to the JİTEM debate on the broad scale between denial and admission of the organization and its activities. Before proceeding to examine these narratives, I find it important to distinguish between an account, a testimony, and a confession.

First of all, *account* signifies "a written or spoken description of something that has happened" (Oxford Advanced Learner's Dictionary, n.d.-a). Thus, *account* could be considered an inclusive word that encompasses both *testimony* and *confession* (e.g., testimonial account, confessional account). As such, it is also related to all subject positions, namely *victim*, *witness*, and *perpetrator*. Second, *testimony* means "a formal written or spoken statement saying what you know to be true, usually in court" (Oxford Advanced Learner's Dictionary, n.d.-c). Hence, testimony is more generally related to witness and victim positions because perpetrators are *mostly* in the defendant position in courts, and their testimonies are accepted as a denial or a confession. Third, *confession* denotes "a statement that a person makes, admitting that they are guilty of a crime" (Oxford Advanced Learner's Dictionary, n.d.-b). As evident in this definition, a confession is associated with the perpetrator position.

In contrast to the two other forms (*testimony* and *account*), *confession* is the most tangled discursive form to be considered in the JİTEM debate. The entanglement of this concept substantially stems from its being a "historically and politically loaded concept" rooted in the

fields of "religion, law, psychoanalysis, and literature" (Yıldız & Baert, 2021, p. 127), but most importantly from its relationship with truth, accountability, and reconciliation (Yıldız, 2019a, 2019b; Yıldız & Baert, 2021). In this sense, the sociology scholars, Yeşim Yaprak Yıldız and Patrick Baert, in their article investigating public confessions of state violence in Turkey, make a distinction between institutionalized confessions (in religious, judicial, and psychiatric forms) about one's individual wrongdoings and public confessions (in mediatized forms – e.g., memoirs, media interviews) of a perpetrator about his or her participation in state violence (Yıldız & Baert, 2021). Confession in the first case mostly functions as accountability, absolution, and forgiveness mechanism with the aim of establishing reconciliation between a perpetrator and victim or between a wrongdoer and him/herself (Yıldız & Baert, 2021, p. 127). On the other hand, public confession in a space free of institutionalized sanctions can serve as a broader *performative* strategy to reconstruct the truth and responsibility regarding past state violence (Yıldız & Baert, 2021, p. 126).

Based on John Austin's speech act theory and Rom Harré and Luk van Lagenhove's positioning theory, Yıldız and Baert draw attention to theoretical opportunity in public confessions, enabling a critical reading of *confession* free of its historical proximity to accountability, reconciliation, and absolution. First, Austin, in his speech act theory, suggests treating an utterance or a statement not only as a constative act but also as a performative act in which an actor performs an action *by* saying or *in* saying something (Austin, 1962, pp. 5–12; Yıldız & Baert, 2021, p. 131). Second, Harré and Lagenhove, in their positioning theory, explains discursive construction of personal stories according to inner psychological (e.g., moral, intentional positioning) and reflexive external (e.g., social, political positioning) settings (Harre & Langenhove, 1999; Yıldız & Baert, 2021, pp. 131–132).

As such, Yıldız and Baert demonstrate through the functioning of public confessions of state violence in the Turkish example that confession does not always work as a truth-revelation act. On the contrary, it can complicate the truth even more with entangling rhetorical strategies such as "excuses, justifications, silences, evasion and denial," which are framed "from the position of the perpetrator within a very specific political and historical context" (Yıldız & Baert, 2021, p. 133).

In this chapter and the following two, I will examine both testimonies that appeared during the Susurluk and Ergenekon investigations and public confessions mediatized through published

memoirs and interviews. I will analyze these sources with the help of the more inclusive word *account*. As briefly mentioned in Chapter 3 and as will be explicitly seen in the rest of this thesis, what we know about JİTEM was mostly shaped by the inconsistent discourses about the organization produced by different state institutions (executive, legislative, judiciary, and military bodies of the state). By analyzing individual accounts on JİTEM in Chapters 4–6, I will examine the inconsistency, which have already been apparent in institutional level, in individual level. In doing so, I will utilize Harré and Lagenhove's (1999) positioning theory to relate the discursive formation of personal stories to social and political settings in a reflexive manner and Michel Foucault's conceptualization of *verbal performance* to explore the rhetorical strategies of personal accounts on the JİTEM debate.

Foucault discusses the concept of *verbal performance* with an emphasis on its relation to *formulation*. Accordingly, a verbal performance refers to "any group of [*semantic, Ed.*] signs produced on the basis of a natural (or artificial) language," and formulation refers to an "individual (or possibly collective) act" that reveals the verbal performance (Foucault, 1972, p. 107). Foucault argues that four main domains affect the discursive formation of a verbal performance: "formation of objects, formation of the subjective positions, formation of concepts, formation of strategic choices" (Foucault, 1972, p. 116). With these domains, he, in fact, proposes a relational analysis of a statement through exploring the verbal performance domains contained in the statement. Accordingly, the issues of the exact timing of a statement, the subject position and intention of the person making the statement, the way the person handles the stated subject, and the correlation or contradiction of the statement with other statements each gain importance (Foucault, 1972, pp. 27–28). Thus, it is possible to claim that activation of these domains in a speech act indeed leads to truth construction from a self-position that is vulnerable to personal and political reckoning.

In this respect, I find Jacques Derrida's deconstruction analysis important to explore the domains of a discursive formation. In his analysis, to problematize the overall truth construction, Derrida suggests focusing on the interaction between language (which is relevant to what is given away in a speech act) and meaning construction (which is relevant to what is hidden away in a speech act) (Derrida, 1997). Thus, it becomes inevitable to deconstruct a discursive formation into its domains in order to reveal the rhetorical strategies between "what is given away" and "what is hidden away" in a speech act. To deconstruct discursive formations of JİTEM-related actors in this chapter and the following two, I employ five basic questions asked by Leigh A. Payne in her book, where she

examines the confession performances of perpetrators in the cases of Argentina, Chile, Brazil, and South Africa: "who tells the story of the past (actor), what they say (script), how they say it (acting), and where (stage) and when (timing) they say it" (Payne, 2008, p. 4).

Taking into consideration the agency of JİTEM-affiliated actors, I will probe two main motivations behind their accounts. The first one relates to the content of the accounts. Indeed, how perpetrators construct their own truth is important – regardless of whether their accounts constitute denial or acceptance. How do they remember and articulate their involvements in JİTEM? The second one is related to a sixth question that I must add to Payne's question model: Why do they speak? What are the motivations that push these actors to speak up? Indeed, stage and timing appear as very relational to this "why" question because the stage and timing of an account's occurrence often have a reason lying behind that account's appearance at a precise time and platform.

Thus, I find it important to ask four interrelated sets of questions to deconstruct the self-truth construction of perpetrators behind their justifications: (1) What is the event? How did it occur? (i.e., the way people handle the event, or the "formation of objects"), (2) Who is telling the story? What is the relationship of the person to the event? (i.e., the "formation of the subjective positions"), (3) How does the person explain the event? What words does the person choose when s/he describes the event? (i.e., the "formation of concepts"), (4) Why is the person talking about the event? How important is the timing and the historical and political background in his/her verbal performance? (i.e., the "formation of strategic choices"). The answers to these questions help us understand the motivations behind specific speech acts, constructing the constituents of a "vocabulary of motives" (Cohen, 2001, p. 58).

In light of these questions, in Chapters 4–6, I will explore the discursive formations and verbal performances of six distinctive actors who have produced accounts on JİTEM (see Table 4.1 for actor profiles). The individuals who talked about JİTEM are not limited to those presented here; I have specifically chosen these six in order to show the diversity of actors involved in JİTEM in terms of their social positions and relationships with JİTEM. Another reason is that they are the most discussed people when it comes to JİTEM, and they frequently refer to each other in their accounts.

Table 4.1: Actor Profiles

Actor Profiles		Profession	Place of Birth	Ethnic Origin	Kurdish Knowledge
Military Officials	Teoman Koman	Commander of the Turkish Gendarmerie Forces (1995–1997)	İstanbul	Turkish	Not-known
	Arif Doğan	Colonel	Hatay (Turkey's southernmost province)	Half Kurdish (because of his mother)	Excellent
	Cem Ersever	Major	Erzurum (Northern Kurdistan)	Albanian Immigrant	Excellent
Civilian Recruits	Mahmut Yıldırım	Hitman	Bingöl (Northern Kurdistan)	Zaza Kurdish	Mother tongue
	Bedran Akdağ	Village Guard	Mardin (Northern Kurdistan)	Kurdish	Mother tongue
	Abdülkadir Aygan	Ex-PKK Militant turned JİTEM Officer (Repentant)	Şanlıurfa (Northern Kurdistan)	Kurdish	Mother tongue

As Table 4.1 demonstrates, three of the actors served at various levels of the army, and the remaining three are civilians (a hitman, a village guard, a repentant). All actors except Teoman Koman are directly related to JİTEM. I include Koman because he was the most authoritative person of the gendarmerie forces when the JİTEM debate flared up during the Susurluk investigation. Table 4.1 also reveals three interesting points. Among these individuals, (1) four (Ersever, Yıldırım, Akdağ, Aygan) have a direct relationship with northern Kurdistan by birth; (2) four (Doğan, Yıldırım, Akdağ, Aygan) have Kurdish ethnic origins; and (3) five (Doğan, Ersever, Yıldırım, Akdağ, Aygan) are fluent in the Kurdish language.

The direct relationship of those five actors with northern Kurdistan, Kurdishness, and/or the Kurdish language proves that the role of insiders in the formation and activities of JİTEM was largely determinant. Considering the Turkish state's long tradition of using insiders in paramilitary strategies, this reality becomes more meaningful. The formation of the Hamidiye Regiments from local Kurdish tribes in the 19th century and the implementations of the Village Guard System and repentance laws in the 20th century are other examples of this strategy. As I discussed through the historical and legal examples in Chapters 2 and 3, the primary goal of the Turkish state in turning to locals in its paramilitary strategies was to eliminate its infrastructural incapacity in northern Kurdistan.

As such, the analysis of these six actors' accounts enables me to discuss their verbal performances within three interrelated chapters on their denial, tacit admission, and admission accounts of JİTEM. In this regard, in the following parts of Chapters 4–6, I will dissect the verbal performances of six individual accounts on JİTEM regarding these actors' discursive formations to clarify – or complicate – the debate on the organization. I also include a short biography of each actor in order to explore their social and political positionings.

Among them, this chapter will demonstrate the first shifting course from the state's official denial strategy to a tacit acknowledgment of JİTEM through the speech acts of two former military officials: then-Commander of the Turkish Gendarmerie Forces Teoman Koman and Colonel Arif Doğan.

4.2. Teoman Koman: Unsustainable Denial of JİTEM

Image 4.1: Teoman Koman (1936–2013) (Gazete Vatan Foto Galeri, 2013)

4.2.1. A Short Biography

Teoman Koman graduated from the Military Academy in 1956 as Third Lieutenant. Among his many important positions, he served as Brigadier General between 1981 and 1985 and as Major General between 1985 and 1989. In 1989, while serving as the Undersecretariat of the National Intelligence Organization, he was promoted to the rank of Lieutenant-General, and then he was assigned to Gallipoli as the Corps Commander in 1992. In 1993, he was promoted to the rank of Army General and came to the service of the 3rd Army Command. Ultimately, he was appointed as the Commander of the Turkish Gendarmerie Forces in 1995 and retired from this position in 1997 (Hürriyet, 2013). He died at the age of 77 due to chronic health problems, with which he had struggled in a military hospital for a long time.

4.2.2. Koman's Discursive Formation

In his comprehensive study scrutinizing both the personal and political ways of *denial*, Stanley Cohen asserts that denial "can be individual, personal, psychological and private – or shared, social, collective and organized" (Cohen, 2001, p. 9). In the public and highly organized part of this spectrum, we encounter official denial. Cohen recommends considering official denial with the *ideological façade of the state*, through which states skillfully conceal past and current realities and

even pursue a denial strategy contradictory to not only victim accounts but also to witness and perpetrator accounts (Cohen, 2001, p. 10).

Digging up the particular components of the official denial discourse, Cohen introduces a mixture of "blatant lies, half-truths, evasions, legalistic sophistries, ideological appeals and credible factual objections" (Cohen, 2001, p. 114). He underlines that actors mostly resort to two useful techniques to make their denial discourse plausible: *denial of responsibility*, or top-down coordination deficiency in the understanding and implementation of instructions on the ground, and *denial of knowledge*, or lack of information on what actually happened on the ground (Cohen, 2001, pp. 127–128).

In this part, I will analyze General Teoman Koman's statements at the intersection of the organizational and personal aspects of official denial. For this analysis, I utilize Koman's statements covered in the media and his five-page letter sent to the Parliamentary Commission for Inquiry into the Susurluk Scandal.

What makes Koman interesting for the JİTEM debate is the period in which he served as the Commander of the Turkish Gendarmerie Forces, between 1995 and 1997. As mentioned earlier, this time interval was crucial because the first official investigations on JİTEM were conducted between those years in response to unsolved political murders and the Susurluk incident. All these inquiries brought Koman to the forefront as the most responsible person in charge of the gendarmerie forces at that time. However, what appeared in the accounts of the gendarmerie's top-tier official was nothing more than the denial of responsibility and knowledge regarding any allegations about JİTEM – even when he implicitly acknowledged the existence of such an organization *outside* the gendarmerie body.

As an agent of official discourse because of the post that he occupied, I deem Teoman Koman's verbal performance to be at the service of the state's plausible denial strategy. Accordingly, his statements about JİTEM shifted from total denial to tacit admission, benefitting from all the convenience of denial of knowledge and responsibility. To be more precise, Koman's accounts on JİTEM oscillated between three main discursive formations over time: (1) denial of JİTEM, (2) denial of responsibility and knowledge regarding JİTEM, and (3) tacit admission of JİTEM.

Obviously, Teoman Koman's discursive transformation was closely connected to the developments in the recent history of Turkey. Discussion of JİTEM became inevitable with the critical revelations of the Parliamentary Inquiry Commissions into Unsolved Political Murders and the Susurluk Scandal. This new situation also caused some updates in the discursive formation of state officials. The following is an account of this discursive update through the statements of the individual who was then the gendarmerie forces' most authoritative person, Teoman Koman.

Leaving aside the JİTEM debate, Koman's denial discourse was generally about the state's informal relationship with paramilitary groups. One of the most controversial of these groups was the *Kontrgerilla*. As discussed in Chapter 2, although the ÖHD's existence within the army was confirmed by former prime minister Bülent Ecevit, the organizational structures of the ÖHD and especially its *Kontrgerilla* force – consisting of military and civilian wings – were not fully clarified. Since this could not be described with certainty, it remained a topic of journalistic research in particular (32. Gün Arşivi, 1992; Kılıç, 2010). In a dinner that Koman organized for the press on 9 July 1992 during his duty at the MİT, Koman particularly underlined that there was no *Kontrgerilla* force in Turkey:

> There is no *Kontrgerilla* in Turkey. *Kontrgerilla* debates originated from the news, where a police officer was shouting, "I am a *Kontrgerilla*," as a reply to a captured terrorist who shouted, "I am a guerrilla." There is an allegation claiming some *Kontrgerilla* serve among a triangle consisting of the National Security Council, Special Warfare Department, and the MİT. There is no such thing.[43]

With these words, Koman not only denied the *Kontrgerilla* and its functioning among official security and intelligence institutions but also took the debate to an even more distractive point by reducing the *Kontrgerilla* phenomenon to a quarrel between a guerrilla and a police officer.

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[43] "Kontrgerilla diye bir şey yok. Kontrgerilla, yakalanan bir teröristin "ben gerillayım" diye bağırmasına kızan polisin "ben de kontrgerillayım" deyişinden çıkmıştır. Yok efendim bir üçgen varmış. Milli Güvenlik Kurulu, Özel Harp Dairesi ve MİT arasında görev yaparmış bazıları, böyle bir şey yok" (H. Çiçek, 1992, p. 25).

Koman's denial discourse on COIN activities in the country also continued when he became the Commander of the Turkish Gendarmerie Forces. The first retraction in Koman's discourse occurred during the parliamentary investigation process for the Susurluk Scandal. Verbal clashes between Koman and the parliamentary commission led Koman to report the acceptance of JİTEM's existence, even if it was a tacit admission. As I will elaborate through Koman's discursive formation on JİTEM below, Koman, by adopting this new discourse, followed a plausible denial strategy acknowledging the existence of JİTEM but denying the state's responsibility for its creation.

4.2.3. On JİTEM

On 4 February 1997, then-Deputy Head of the Intelligence Department of the Police Hanefi Avcı testified before the Parliamentary Inquiry Commission for the Susurluk Scandal. During his testimony, he acknowledged that some paramilitary groups were formed within the National Intelligence Organization, the Turkish National Police, and the Gendarmerie General Command. According to Avcı's claims, JİTEM was one of these paramilitary units formed under the Gendarmerie Command. Upon this allegation by Avcı, the Commander of the Turkish Gendarmerie Forces, Teoman Koman, immediately denied that there was a JİTEM unit in the gendarmerie and condemned Avcı's claims as "exaggerated accusations" (Ağaşe, 2003, p. 16).

Koman not only refused Avcı's allegations about JİTEM but also launched an administrative and judicial investigation into the military personnel who had testified before the Commission on Veli Küçük – one of the alleged founders of JİTEM and then Giresun Gendarmerie Regional Commander (Ağaşe, 2003, p. 17). Nevertheless, the continuing allegations about JİTEM in the Commission required Koman, as the most highly authorized name in the gendarmerie, to testify before the Commission himself. Koman refused the first invitation of the Commission. However, when the invitation was reissued by the Commission, he cunningly asked the Commission to state the task for which his testimony was requested: for his duty as the Undersecretariat of the MİT (1989–1992), or as the Commander of the Turkish Gendarmerie Forces (1995–1997)? Upon this, the Commission decided to invite him as a witness due to his service for the MİT. This time, the Commission encountered an official barrier. Koman wrote in his reply to the second invitation:

> Your Commission has invited me, but under the MİT Law, the undersecretary can only provide information to the President, Prime Minister, Chief of General Staff, and the National Security Council. Other than these posts, the office shall not give information to any institution or person. Therefore, I cannot come to your Commission and provide information. However, this work has seemingly turned into a dispute between the TSK and the TBMM.[44]

This is a remarkable explanation, especially because of the last sentence highlighting the inter-institutional controversy between the TSK and the TBMM. While the legislative body (TBMM) of the state was conducting an investigation to uncover the clandestine groups that cooperated with different state institutions, the military body (TSK) did not seem willing to provide the necessary information. For instance, Koman not only refused to provide information but also launched an administrative and judicial investigation to prevent military personnel from testifying to the Commission.

The start of the Ergenekon investigation in 2007 with its military suspects reignited the deep state debate in the Turkish public and brought the Susurluk Scandal back onto the agenda. One month before the first hearing of the Ergenekon trials on 20 October 2008, the chairman of the Parliamentary Susurluk Investigation Commission in 1996, Mehmet Elkatmış, spoke to the pro-state weekly magazine *Yeni Aktüel* on 4 September 2008. In the interview, Elkatmış said that the Commission had accessed much information about JİTEM but could not detail the investigation because Koman refused to testify before the Commission. For Elkatmış, Koman's refusal of testimony was an insult to the Commission and furthermore an admission of the charges about JİTEM (Korkmaz, 2008a, p. 16). According to Elkatmış, Teoman Koman had, in fact, confirmed the accusations against JİTEM by abstaining from testifying to the Commission.

Indeed, Teoman Koman sent a five-page letter to the Commission in January 1997 due to the increasing public pressure criticizing his attitude towards the parliamentary commission. This letter

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[44] "Komisyonunuz beni davet etmiştir. Ancak MİT kanununa göre müsteşar ancak Cumhurbaşkanı, Başbakan, Genelkurmay Başkanı ve MGK'ya bilgi verebilir. Onun dışında hiçbir kurum veya kişiye bilgi veremez. Bu nedenle komisyonunuza gelip bilgi vermem mümkün değildir. Ancak bu iş, sanki Silahlı Kuvvetler'le TBMM arasında bir güç gösterisine dönüşmüştür" (Kılıç, 2009, p. 205).

was addressed as a denial letter in the pro-state newspaper *Milliyet* on 1 February 1997 since Koman denied a unit called JİTEM within the gendarmerie (Milliyet, 1997, p. 17). In his letter, he held the media responsible for the reproduction of the JİTEM myth:

> Recently, we see that the name JİTEM is used in some media sources, and even some state institutions use this term based on the misperception obtained from such sources.
> We observe in the press that the people who gave information to the publicly known Parliamentary Susurluk Investigation Commission made statements using the same name. Some print media even use more different and superficial terms like "Gendarmerie JİTEM."[45]

In the continuation of the letter, for spreading the name "JİTEM," Koman put the blame on some subordinates' ignorance regarding the inner functions of the gendarmerie body:

> In past years, as well as today, some sources outside the gendarmerie occasionally used the name "JİTEM." We even observed that some lower ranks within the gendarmerie, who were not aware of the internal functioning of the organization, also used the name as an epithet for the gendarmerie intelligence groups and teams. Therefore, we instructed gendarmerie units not to use this name.[46]

According to Koman, JİTEM was a misnomer used for the gendarmerie intelligence groups and teams. He explained in his letter that the Gendarmerie Intelligence Superiorities (*Jandarma İstihbarat Amirlikleri*) was formed in the 1950s as the main responsible body for the provision of

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[45] "Son zamanlarda bazı medya organları ile kaynaklarda JİTEM adının kullanıldığı, bu gibi kaynaklardan edinilen yanlış algılama ile bazı devlet kurumlarının dahi bu terimi kullandıkları görülmektedir. Kamuoyunca benimsenen adıyla TBMM Susurluk Araştırma Komisyonu'na bilgi veren şahıslardan da aynı ismi kullanarak beyanda bulunanlar olduğu basında izlenmekte ve hatta bazı yazılı basında 'Jandarma Jitem'i' gibi daha da farklı ve gelişi güzel terimlere yer verildiği görülmektedir" (Kılıç, 2009, p. 206).

[46] "Günümüzde olduğu gibi geçmiş yıllarda da jandarma dışında bazı kaynaklarca 'JİTEM' zaman zaman kullanılmış, hatta Jandarma teşkilatının konuyu bilmeyen bazı alt kademelerinde de kullanıldığının görülmesi üzerine, Jandarma istihbarat grup ve timleri için tamamen yakıştırma olan JİTEM tabirinin kullanılmaması teşkilata tamim edilmiştir" (Kılıç, 2009, pp. 207–208).

intelligence related to security and public order, and particularly smuggling. In 1987, in the context of the fight against terrorism, this body was transformed into Gendarmerie Intelligence Groups and Teams by the Gendarmerie Public Security Command (JAK) in Diyarbakır based on the opinion of the General Staff and the approval of the Ministry of Internal Affairs (Kılıç, 2009, p. 207).

Koman also stated that these groups and teams' only responsibility was gathering intelligence within the gendarmerie's duty area (Kılıç, 2009, p. 207). Leaving aside the legality or illegality of JİTEM, he stressed in the letter from a military perspective that he did not find it right to merge intelligence and operation authorities within the same unit, even if it was legal. He also highlighted that Turkey was a state of law, and creating an illegal unit like JİTEM was not possible in the rule *of* law (Kılıç, 2009, p. 208).

The narrative thus far complies with the state's official denial discourse on JİTEM. What makes Teoman Koman's letter crucial is the quick shift from denial discourse to an admission of an organization named JİTEM, albeit outside the gendarmerie. According to Koman, there was a group outside the military using the name JİTEM:

> There is no unit called JİTEM as a legal or illegal entity within the gendarmerie, neither in the past nor today. However, the existence of a group outside the gendarmerie, which calls itself JİTEM, is evident, and they have been involved in several illegal activities.[47]

This conclusion of the letter clearly indicates the transition from denial to acceptance discourse. In this quotation, Teoman Koman still continues to deny any legal or illegal involvement and responsibility of the state in the creation of JİTEM. However, he accepts the existence and illegal activities of *an organization called JİTEM* outside the gendarmerie body.

[47] "Jandarma teşkilatı bünyesinde legal veya illegal bir unsur olarak geçmişte ve günümüzde JİTEM isimli bir birim mevcut değildir. Ancak kendilerine JİTEM ismini veren jandarma dışında bir grubun varlığı ortadadır ve bunlar bir takım gayri kanuni işlere karışmışlardır" (Kılıç, 2009, p. 208).

In another interview in 2008, Mehmet Elkatmış stated that they formulated Koman's tacit admission of JİTEM in his letter during the Susurluk investigation as follows: "JİTEM is non-existent, but its actions are real and must be investigated (*Varlığı mevcut olmayan ama eylemleri gerçek olan JİTEM araştırılmalıdır*)" (Haberler, 2008b).

Another conclusion about JİTEM was uttered by then-Prime Minister Mesut Yılmaz in 1998. Based on the Prime Ministry Susurluk Report, Yılmaz stated: "JİTEM does not exist right now. The organization was abolished" (Hürriyet, 2005). As I already discussed in Chapter 3, Kutlu Savaş, in his Prime Ministry Susurluk Report, revealed the existence of JİTEM as an organization born out of necessity within the scope of the fight against terrorism in the OHAL region. Based on that report, the prime minister retrospectively acknowledged the existence of JİTEM within the state.

All of the official accounts by Avcı, Koman, Elkatmış, Savaş, and Yılmaz provided in this section confirm, however self-evidently, reluctantly, ambiguously, contradictory, or compulsorily, the existence of JİTEM. Missing, however, are the details about who established and then abolished the organization.

4.2.4. Koman's Verbal Performance

Teoman Koman's account functions as the tacit admission of JİTEM. For the first time, the gendarmerie's most authoritative person acknowledged the existence of JİTEM, albeit implicitly. What makes Koman's narrative implicit was his effort to take the JİTEM debate outside the military. For him, JİTEM was only a misnomer, used wittingly or unwittingly by some lower-ranking military personnel and the media. Thus, he consistently pursued a strategy to deny any knowledge or responsibility regarding the existence of such an organization within the gendarmerie body, even though he was aware of a group that committed crimes using the name of JİTEM.

This admission indicates there was no longer a way to maintain complete silence and denial of JİTEM. Yıldız draws attention to a remarkable increase in the visibility of accounts of state violence and the deep state in media after the Susurluk Scandal (Yıldız, 2019a). She argues that the crucial issue in the new situation for state authorities "was not the complete silencing of speech but rather its control and regulation" (Yıldız, 2019a, p. 81). Both the *control* and *regulation* aims of the state on specific information function well to such an extent that they cover up or distort the disclosure of

truth. According to Cohen, distortion or reconstruction of truth is also part of the official denial strategy of states and finds its reflection at the highest level in *rewriting history* (Cohen, 2001, p. 10).

Thus, I evaluate the verbal performance of Teoman Koman within the *control* and *regulation* efforts of the state on an issue for which the state cannot prevent disclosure any longer. The facts revealed by the Susurluk investigations made it impossible for the state to deny the existence of JİTEM. At this point, Teoman Koman's task was to establish *control* and *regulation* mechanisms over the revealed information. Accordingly, Koman not only acknowledged the existence of JİTEM but also tried to control the information about JİTEM by suggesting that it operated outside of the TSK. Indeed, Koman's intervention in the JİTEM debate would later repeat itself in the General Staff's many statements.

As will be revealed in Chapter 6, Koman's credibility was most tested during the Ergenekon investigation in 2008 when JİTEM's former confessing informant Abdülkadir Aygan released his army payroll, upon which JİTEM was specified as his assignment of duty. Further undermining Koman was the testimonial of a retired colonel, Arif Doğan, whose 2011 book entitled "I Founded JİTEM" ultimately challenged Koman's claims by revealing that JİTEM operated illegally within the internal functioning of the gendarmerie.

4.3. Arif Doğan: Denial of Extra-Judicial Violence

Image 4.2: Arif Doğan (1945–2014) (CNN Türk, 2010)

4.3.1. A Short Biography

Hatay native Arif Doğan was born in 1945. During his years at the Faculty of Law of İstanbul University in the early 1960s, he changed course and enrolled in the Military Academy. Doğan graduated from the Military Academy in 1967 as Third Lieutenant. In 1968, he received the rank of Second Lieutenant. His first assignment was in the mobile gendarmerie unit in Kızıltepe, Mardin. After having served as the Gendarmerie Commander in the border section of Toruntepe, Mardin, he was appointed to Trabzon as the Chief Intelligence Officer with the rank of Lieutenant in 1971. In his book, he described his first encounter with intelligence service with pride: "I served as a Lieutenant in a position that should have been staffed with a Colonel" (Arif Doğan, 2011, p. 15). After having served in the Gendarmerie Commando Units of Adıyaman, Kahramanmaraş, Malatya, Siirt, and Batman with the rank of Captain in the following years, he founded the Gendarmerie Intelligence Group Command (JİGK) while serving at the Gendarmerie General Command as Major in 1983. Then, with the rank of Lieutenant Colonel, he founded JİTEM in 1987 (Arif Doğan, 2011, p. 16). In 1990, he was appointed to the Division Support Command of the Gendarmerie Schools Command in Ankara. From this post, he was appointed to the Niğde Provincial Gendarmerie Command in 1992 and received the rank of Colonel there. After Niğde, he served as the Yalova Provincial Gendarmerie Commander, and then he retired in 1998 during his duty at the İstanbul Gendarmerie Regional Command Headquarters. He stated that he spent 21 years of his

military career in eastern and southeastern provinces (Arif Doğan, 2011, p. 16). After completing his military career, he also wanted to embark on politics. He became a candidate for the center-right political party DYP in the 1999 parliamentary election but did not win a seat. In 2008, he was taken into custody in Ankara and brought to İstanbul during the Ergenekon investigation. In the Ergenekon trial, he was sentenced to 47 years and 3 months of imprisonment by the İstanbul 13th Assize Court in 2013. However, the court released him on bail, considering his health condition and age. Arif Doğan died of heart and respiratory problems at the age of 69 in 2014 (Habertürk, 2014).

4.3.2. Doğan's Discursive Formation

One of the most controversial issues discussed during the Parliamentary Susurluk Commission's investigation was whether JİTEM was linked to military officials. As detailed above, Teoman Koman denied such a link in his letter to the Commission. He characterized JİTEM as an "illegal group organized outside the military" (Kılıç, 2009, p. 208), even if this group used "gendarmerie" in its name. However, the Commission members, who did not find Koman's explanation satisfactory, sent written questions about the relationship between JİTEM and the army directly to the General Staff in 1997. The General Staff's one-sentence reply to these questions was emphatic: "TSK members are not involved in such an organization" (Korkmaz, 2008, p. 16). After receiving this reply, the Commission insisted on directing the same question to the General Staff based on the Commission's findings of some military personnel's relationships with JİTEM. The second response of the General Staff was similar to Teoman Koman's response that emphasized a verbal clash between the TBMM and the TSK: "The TSK is persistently portrayed as if having played a part in the events. We are sad about this situation" (Korkmaz, 2008, p. 17).

The official denial discourse on the nexus of military officials with JİTEM started to change in the 2000s. While the commonly repeated official discourse in the 1990s denied JİTEM's relationship with the state entirely, this discourse evolved into a "necessity" discourse in the 2000s. The main argument of this new discourse was that JİTEM was a necessary unit in the fight against terrorism, but that, contrary to what was mentioned in the media or the statements of local people of northern Kurdistan, it did not perform illegal acts against civilians.

With the start of the Ergenekon investigation in 2007, the discussion about JİTEM's relationship with the gendarmerie was acknowledged by an authorized military person. Verbal clashes between

retired Brigadier General Veli Küçük and retired Colonel Arif Doğan – both detained as part of the investigation in 2008 – led to the emergence of contradictory claims about JİTEM (Haberler, 2008a).

Veli Küçük, in his courtroom testimonies on both 15 December 2008 and 26 January 2008, denied the existence of JİTEM within the gendarmerie body (Hürriyet, 2008; Haberler, 2009). Küçük stated that he had established the unit known as JİTEM among ordinary people. However, as Teoman Koman had previously emphasized, according to Küçük too this name, "JİTEM," was a misnomer. Accordingly, Küçük had established JİGK with a state decree (Haberler, 2009). That is to say, his work in the past was completely lawful. Based on this discourse, Küçük denied the accusations attributed to him in relation to JİTEM. Nevertheless, his court testimony was challenged by two different counter-statements in the following process.

The first one came immediately after the hearing on 15 December 2008 from former repentant Abdülkadir Aygan. As I will detail in Chapter 6, Aygan published his salary payroll on 16 December 2008, showing "JİTEM" as his assignment of duty (Bianet, 2008). The second counter-statement was made in the 2nd Indictment of the Ergenekon investigation in 2009, where Arif Doğan confessed that he had established JİTEM together with Majors Hüseyin Kara and Cem Ersever, and with Captains Aytekin Özen and Ali Yıldız (T.C. İstanbul Cumhuriyet Başsavcılığı, 2009, pp. 1488–1500; Bianet, 2009b).

Moreover, Doğan went beyond this initial 2009 confession and published a book with an unequivocal title – *JİTEM'i Ben Kurdum* ("I Founded JİTEM") – in 2011 explaining how he had established JİTEM illegally within the gendarmerie body. With this book, not only did Doğan lay claim to the illegal formation of JİTEM; he also refuted Koman's and Küçük's previous assertions that JİTEM was a misnomer. With this acknowledgment, the TSK had to modify how it responded to claims of the organization's illegal activities. No longer able to deny that it existed, the new focus of the debate was on whether the organization had committed extra-judicial violence against civilians or not.

In the following, I will probe Doğan's accounts of JİTEM from the perspective of his verbal performance based on his book and his appearance on a television program called *32. Gün* (32nd Day) in 2011. Arif Doğan's book was published in January 2011, while Ergenekon lawsuits were

still pending. As Doğan's health did not allow him to write the book by himself, it was published in the form of interviews conducted by editor Cüneyt Dalkıran. Apart from the accounts on JİTEM, the book also contains significant claims about the PKK, the Susurluk Scandal, and Hizbullah.

32. Gün was Turkey's longest-lasting and most influential mainstream television news show, which was broadcast between 1985 and 2016. Doğan participated in a session of the program anchored by veteran journalist Mehmet Ali Birand on 28 January 2011, immediately after the publication of his book (32. Gün, 2011). This program became memorable primarily for Doğan's emotional outbursts. Arif Doğan participated in the program with respiratory equipment due to his health problems, and, throughout the show, he displayed different emotional moods ranging among tears, anger, and complaints, especially for his defendant position in the Ergenekon trials as a patriot who had served the state for years.

Both his book and his *32. Gün* appearance accommodate three crucial points about JİTEM: (1) the official logic behind the organization's initial creation and operation, (2) the denial of extra-judicial violence against civilians, and (3) the contradiction between the JİTEM founded by Arif Doğan and the JİTEM taken over by his successors in office. In the following, I explore more closely some of the key points that can be drawn from his book and media appearance, with a special focus on the rhetorical shifts that this testimony forced on those trying to debate about JİTEM.

4.3.3. On JİTEM

In his book, Arif Doğan states that if one wants to have a proper perspective on JİTEM, s/he must understand the process before and after the establishment of the organization (Arif Doğan, 2011, p. 18). Thus, he starts to explain his own "before and after" story.

Doğan was appointed to the Gendarmerie General Command in Ankara as Intelligence Branch Manager in 1983 with a special mission to establish a separate and effective gendarmerie intelligence unit (Arif Doğan, 2011, p. 17). For this aim, he created JİGK and became the first commander of that branch. This Command's duty area was the whole of Turkey, including both police and gendarmerie task areas (Arif Doğan, 2011, pp. 20–21). To provide coordination between these areas and the JİGK, he also created regional group commands and local teams affiliated with these commands. Until 1987, all these groups and teams had only been responsible for gathering

intelligence. Those in the Southeast additionally gained operational authority in 1987 with the declaration of emergency rule in the region (Arif Doğan, 2011, p. 23).

Doğan explained why the General Command chose him to conduct this work. According to him, the first most important factor was his long-term military service in the eastern and southeastern provinces (Arif Doğan, 2011, p. 18). Secondly, Doğan's mother was Kurdish, and he spoke Kurdish very well, helping him to understand locals. Third, his family had an extensive lineage in the southernmost Hatay province. That meant that he had a profound knowledge of the customs and traditions of the eastern parts of Turkey, since Hatay stands out with its multicultural fabric in which Sunni Arabs, Alevis, Arab Christians, Armenians, Kurds, and Turks live together (Tür, 2016). Doğan, undoubtedly, underlined these three points to emphasize that he had been deliberately chosen by the army for this intelligence mission because of his insider position in the region.

With the creation of the OHAL Governorate and the JAK for northern Kurdistan in 1987, previous regional group commands and teams of JİGK responsible for the region were made dependent on the JAK. In this new situation, Doğan was appointed from his office in Ankara to Diyarbakır on the request of then-JAK Commander Hulusi Sayın (Arif Doğan, 2011, p. 23). According to this appointment, Doğan would have two different levels of authority in accordance with the dual state functioning of the state. Accordingly, Doğan would continue his service as the JİGK Commander in the normative functioning of the state outside the OHAL region. In addition to his ordinary service in Ankara, he would be granted extra authority for the command of intelligence groups and teams under the JAK in conformity with the prerogative functioning of the state in the OHAL region.

Arif Doğan's ideas about the need for a more efficient intelligence unit thrived during his assignment in Diyarbakır. According to Doğan, military and civilian units of the JİGK could not be effective in the emergency region against PKK actions because they had no operational authority. Group or team members were only collecting intelligence and transferring the obtained information to relevant enforcement units. The information was mostly wasted because the enforcement bodies were often too late to intervene (Arif Doğan, 2011, p. 21). According to Doğan, the solution was to conjoin both intelligence and operational authorities in a new unit, namely the Gendarmerie Intelligence and Counter-Terrorism Group Command (JİTEM Group Command).

Doğan notes in his book that he took the new, still untested idea first to JAK Commander Hulusi Sayın, and Sayın submitted it to then-Turkish Gendarmerie Forces Commander Burhanettin Bigalı. Bigalı's response to this proposal seems to be the source of the debate over whether JİTEM was a unit formed inside or outside the army. As Doğan emphasizes, Bigalı stated in his written reply:

> This person [*i.e., Hulusi Sayın*] is Security Commander. Since this is the man in charge of the region and since he wants JİTEM as an intelligence unit, I let him form this unit. "Let's try it temporarily until a second order arrives."[48]

JAK Commander Hulusi Sayın served in the region between 1987 and 1989. Because he was assassinated by a leftist organization in 1991 (Internet Haber, 2010), he could not participate in the JİTEM debate that started in the mid-1990s. However, Burhanettin Bigalı testified before the Parliamentary Susurluk Investigation Commission on 2 March 1997, where he denied the establishment of JİTEM in the gendarmerie during his term of duty (Türkiye Büyük Millet Meclisi, 1997, p. 226).

Thus, it is only Doğan who explains in his book that he created JİTEM under the responsibility of JAK Commander Hulusi Sayın with the temporary permission of Burhanettin Bigalı as the most authorized military official of the Gendarmerie Forces in 1987. According to Doğan, Bigalı's *temporary* permission was also the main reason why the Turkish General Staff consistently refuted the organization's existence in the army:

> They gave us the authority for temporary work. *Temporarily* [*emphasis is mine, Ed.*] means the cadre is not certified. For this reason, the situation is different in the official records of the General Staff. The General Staff refutes the existence of JİTEM because it was not a certified unit.[49]

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[48] "Bu kişi asayiş komutanı. Mademki orada sorumlu adam bu, mademki istihbarat kurumu JİTEM'i istiyor, öyleyse istihbarat ünitesini o tayin etsin, ikinci bir emre kadar geçici olarak denensin. Müsaade ettim" (Arif Doğan, 2011, p. 24).

[49] "Geçici olarak görev yapma yetkisi verdiler. Denenmek üzere. Kadro tasdikli değil. Genelkurmay kayıtlarında durum o bakımdan farklı. Kadrolu bir birim olmadığından Genelkurmay, JİTEM'in varlığını reddediyor" (Arif Doğan, 2011, p. 59).

Hence, the JİGK in the OHAL region was transformed into the JİTEM Group Command in 1987. The composition of JİTEM included both intelligence and operation personnel, whereas the JİGK had only consisted of intelligence personnel and their civilian informant contacts in the provinces, districts, neighborhoods, and villages. Their only task was to gather intelligence. In the JİTEM Group Command, all of these military and civilian units functioning in the OHAL region gained operational authority. In the meantime, the staff diversity of civilian units was extended to include ex-PKK militant repentants and village guards (Arif Doğan, 2011, p. 47).

This evolving JİTEM structure described by Doğan so far coincides with the framework discussed in Chapter 3. What makes Doğan's account unique is his statement about the formation of an additional civilian JİTEM unit that only consisted of trained informants and agents. Doğan describes this unit in his book as "the core element of JİTEM," which nobody knew about (Arif Doğan, 2011, p. 33). Doğan explains that members of this unit were selected from across the country to fight the PKK as the PKK started to attract sympathizers across the country (Arif Doğan, 2011, p. 34).

Both in his book and on the *32. Gün* TV show, Doğan stated that this special unit had consisted of 10,000 civilians (Arif Doğan, 2011, p. 34; 32. Gün, 2011). Leaving aside this striking number, he also claimed that he had chosen all of those individuals himself (32. Gün, 2011). In his book, Doğan explains that he chose these special unit members from various occupational groups according to some specific criteria: The person selected could not wear glasses and was not less than 1.70 meters tall. There had to be no more than 10 kg difference between the selected person's height and weight. The person was supposed to be healthy, at least 23 years old, and literate (Arif Doğan, 2011, p. 36).

Arif Doğan's accounts so far contain an admission that JİTEM was illegally created within the army. His admission, however, also points to the existence of an illegal army of 10,000 people. He asserts that *ordinary* JİTEM teams only performed intelligence gathering and that only this *special* team conducted operations. Accordingly, when information specific to a particular city or region was acquired, individuals affiliated with the special JİTEM team close to that intelligence zone came together and carried out the operation (Arif Doğan, 2011, p. 36). Doğan's statements about this special JİTEM team coincide with the civilian *Kontrgerilla* wing of the ÖHD and also support

the allegation of the Parliamentary Commission for the Inquiry into Military Coups. As stated in Chapter 3, the Commission claimed that JİTEM was created according to the ÖHD's organizational structure in its 2012 report (Türkiye Büyük Millet Meclisi, 2012, p. 151).

In his book, Arif Doğan also provides information about the scope of the tasks of the JİTEM teams. He contends that JİTEM was only active in the war against PKK guerrillas in mountains and valleys. Accordingly, JİTEM had nothing to do with residential areas and cities (Arif Doğan, 2011, p. 36). This account obviously rejects the narrative that extra-judicial violence was inflicted on civilians and thus contradicts the victims' relatives' claims that their relatives were interrogated and killed or enforcedly disappeared by JİTEM. Doğan stresses that JİTEM units never interrogated or killed anyone extra-judicially; the organization's only task was to gather intelligence and carry out armed operations against PKK guerillas.

> We delivered individuals [*PKK guerrillas, Ed.*] caught alive to enforcement bodies without hesitation, and these bodies brought them to justice. We never used torture methods or extra-judicial punishment against anyone according to the logic of "they cut off the ear of our soldier, burned our soldier, so let's do the same to them." I did not give an order to any of the units along the lines of "kill this person, hang this person" [*referring to unsolved murders*, *Ed.*].[50]

However, considering the non-ignorable reality of unresolved murders and enforced disappearances, Arif Doğan pursues the same denial tactic as Teoman Koman, claiming that there were shadowy groups using the name JİTEM to commit certain atrocities against Kurdish civilians. These groups consisted of local people and PKK defectors, who detached from "JİTEM" and acted independently in their own interests. To describe the organization formed by these individuals,

[50] "Biz sağ olarak yakaladığımızı hiç tereddüt etmeden alıp icra organlarına veririz, onlar da adalete sevk ederler. Bizde, işkence etme, ceza verme, "onlar askerin kulağını kesmişti, askeri yakarak öldürmüştü, biz de yakarak öldürürüz" gibi bir yöntem kesinlikle izlenmezdi. Ben komutanlık yaptığım birimlerin hiçbirinde hedef gösterip "şunu öldürün, şunu gebertin, şunu asın" diye bir emir vermedim" (Arif Doğan, 2011, p. 40).

Doğan uses a word that he makes up with slang connotations: GÖTEM,[51] which had no relationship with the JİTEM that he built (Arif Doğan, 2011, p. 40).

The question here becomes: Why did Arif Doğan – as the most highly authorized person responsible for intelligence in the OHAL region – not prevent these "detached" people from committing arbitrary activities under the name of JİTEM? Doğan implicitly answers this question by making a distinction between the period in which he was in charge and the period after he handed over the reins to Veli Küçük and Cem Ersever:

> After I left JİTEM, JİTEM was again transformed to the Gendarmerie Intelligence Group Command. […] They disbanded the JİTEM Group Command that had been already established temporarily. Then two Gendarmerie Intelligence Group Commands were established in the gendarmerie body: the Diyarbakır Gendarmerie Intelligence Group Command [*responsible for the OHAL region, Ed.]* and Ankara Gendarmerie Intelligence Group Command. Veli Küçük became the head of Ankara Group, and Cem Ersever became the head of Diyarbakır Group.[52]

Based on the same discussion, he adds later in the book:

> Let me explain that I did not hand over JİTEM to Veli Küçük Pasha. If Veli Küçük says that I was at the command of JİTEM, his JİTEM is not the JİTEM I know. Just as Veli Küçük Pasha does not know the JİTEM I founded, I do not know his, either. […] When he was a colonel, I handed over the Gendarmerie Intelligence Group Command

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[51] *Göt* means "ass" in Turkish. With this pun, Arif Doğan implies that those carrying out illegal activities under the name of JİTEM were what speakers of English might term "assholes."

[52] "Ben JİTEM'den ayrıldıktan sonra JİTEM, JİTEM İstihbarat Grup Komutanlığı'na dönüştürülmüş. […] Denenmek üzere kurulan JİTEM Grup Komutanlığı'nı da feshetmişler. Ardından jandarmada iki tane Jandarma İstihbarat Grup Komutanlığı kurulmuş: Diyarbakır Jandarma İstihbarat Grup Komutanlığı ve Ankara Jandarma İstihbarat Grup Komutanlığı. Ankara'nın başına Veli Küçük, Diyarbakır'ın başına da Cem Ersever getirilmiş" (Arif Doğan, 2011, pp. 104–105).

> to him. I did not say, "Come and be a JİTEM guy." He may have changed the intelligence command that he took over and made it operational; I don't know.[53]

By making this temporal distinction, Doğan employs two techniques of official *not-knowing*: denial of responsibility and denial of knowledge. These two techniques work in two ways in Dogan's reports. Whereas he sees no harm in the illegal creation of JİTEM in the army, he explicitly denies the extra-judicial violence inflicted on civilians and any role of his agency in the emergence of this violence. Thus, he effaces his responsibility for and even knowledge of the crimes attributed to JİTEM by putting all the responsibility on his successors. The question here is: Whose JİTEM was "real" or indeed "innocent"? In pursuit of an answer to this question, I will look at Doğan's verbal performance in detail.

4.3.4. Doğan's Verbal Performance

Investigating the discursive formation of Doğan's overall verbal performance, it is possible to see a contradiction both *within* his accounts and *between* his and other actors' statements. First and foremost, his admission of the illegal formation of JİTEM in the military contradicts all official statements previously made about JİTEM (e.g., those of Teoman Koman and the General Staff). With this confession – as we have seen – Arif Doğan actually made himself the self-professed founder of JİTEM. Moreover, although he stated that he was a military man who respected the law, he did not see any harm in establishing JİTEM illegally:

> I respect the constitution and laws. All kinds of laws are passed for the good of individuals and society. However, if these laws do not fulfill a need [*which they were*

[53] "Bakın, Veli Küçük Paşa'ya ben JİTEM'i devretmedim. Veli Küçük, ben JİTEM'in başındaydım, diyorsa onun JİTEM'i benim bildiğim JİTEM değildir. Nasıl benim kurduğum JİTEM'i Veli Küçük Paşa bilemiyorsa, onunkini de ben bilemiyorum. [...] Albay olduğu dönemde Jandarma İstihbarat Grup Komutanlığı'nı ona devrettim. Yoksa "Gel, sen JİTEM'ci ol!" demedim. O, devraldığı istihbarat teşkilatını daha değişik bir hale getirip faaliyet yaptırmış olabilir, bilemiyorum" (Arif Doğan, 2011, p. 131).

> *supposed to meet, Ed.*], they are doomed to be amended. What could I do if they were not changed? They did not meet my needs.[54]

This self-contradictory quote shows that Arif Doğan did not see any harm in going beyond the law when a particular law was deemed by him to be dysfunctional. Because he found the gendarmerie's existing intelligence function in the fight against the PKK inadequate, he did not hesitate to put JİTEM into operation, even if it was illegal.

Leaving the debate on the organization's legality aside, according to Doğan, JİTEM was born out of necessity and achieved its aim with an effective fight against the PKK. As Doğan states very clearly in his book, if JİTEM had continued to exist, the success of the gendarmerie or other security forces in the East and Southeast would have been fifty times greater than at present (Arif Doğan, 2011, p. 21).

This statement and the above quotation show that Doğan's verbal performance was actually based on a *state of emergency* discourse. It was already the prerogative functioning of the state in the *state of emergency* region that motivated Doğan to go beyond the rule *of* law. Even the formation of JİTEM with *temporary* permission from the Gendarmerie General Command demonstrates that rule *by* law was arbitrarily in action in the OHAL region. The suspended rule *of* law itself in the region made the violence arbitrarily contracted between the state and its agents. On one side of this contract, the state had already created impunity-assured arbitrariness for its officials in the region by building up a rule *by* law administration through OHAL decrees. On the other side of this contract, state officials – like Doğan – took advantage of this contract for their illegal and arbitrary activities, whether or not under patriotic motivations.

Rather than clarifying between vertical and horizontal definitions of JİTEM, Doğan's accounts actually make JİTEM more complicated. On the one hand, he makes a vertical distinction between JİTEM units. Accordingly, JİTEM consisted of two central units: The first one consisted of only

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[54] "Anayasa ve yasalara saygılıyım. Her türlü yasa; fert ve toplum için çıkar. Ancak bunlar ihtiyacı görmüyorsa değiştirilmeye mahkumdur. Değiştirilmemişlerse benim günahım ne? Benim ihtiyacımı görmüyor" (Arif Doğan, 2011, p. 61).

military officials and civil informants, including village guards and PKK defectors, and was only responsible for collecting intelligence. The second unit, like an army of 10,000 people, consisted of only civilian informants and agents, and JİTEM's operational authority was only in the hands of this special unit. This second unit, which Doğan describes as JİTEM's core unit, did not appear in anyone else's accounts related to JİTEM except Doğan's. In his *32. Gün* interview, he answered the question of journalist Birand about what had happened to this special JİTEM team after his term of duty: "I froze it (*Dondurdum*)" (32. Gün, 2011). That means he did "freeze" JİTEM's operational activities when his duty expired in 1990. The verb "to freeze" was a word that Doğan explicitly used in his speech, which means that this group of 10,000 people was merely deactivated and could hence be reactivated if needed.

On the other hand, Doğan makes a horizontal distinction between the JİTEM of his own period and that of the successors, which he names "GÖTEM." With this unusual concept formation, he actually insists on the "glorified and sterilized image of JİTEM" (Yıldız, 2019a, p. 86). Accordingly, he and *his* JİTEM were never involved in any illegal activities or violence inflicted on civilians. The JİTEM that his successors built was not the JİTEM that Doğan created. According to him, the JİTEM that he founded was born out of necessity, and despite its illegal origins, it never engaged in illegal activities against civilians. As he claims, if illegal activities carried out under the name of JİTEM are to be discussed, questions about these activities should be directed toward his successors.

4.4. Discussion

This chapter has demonstrated how the JİTEM debate underwent a change from denial to tacit admission of the organization through the accounts of military officials Teoman Koman and Arif Doğan. The questions asked by Payne ("who tells the story of the past (actor), what they say (script), how they say it (acting), and where (stage) and when (timing) they say it") to analyze perpetrators' verbal performances enabled me to make an argument that *who* told the story of the past is as important as the story was told *how*, *where*, *when* and additionally *why*. Therefore, in terms of the *who* question, the military identities of Koman and Doğan are important in terms of breaking the denial of JİTEM through the words of officials.

This chapter has also explored the actors' possible motivations in the production of these accounts. Both Teoman Koman's and Arif Doğan's acknowledgment of JİTEM's existence has emerged as a necessity of historical process rather than purely confessional decisions to speak up. In this regard, the question that I add to Payne's question model is *why* both actors talked at a specific time but not before, clearly demonstrating that the JİTEM discussion had reached an inevitable point of acknowledgment as a compulsion of historical developments. In the accounts of Koman and Doğan, the Susurluk and Ergenekon investigation processes, respectively, made it inevitable that the issue of JİTEM would become public. In both cases, the actors had to make statements about and against JİTEM to reply to the allegations against the institutions that they represented. While Koman displayed a state-defense reflex during the Susurluk investigation, Doğan's statements displayed both a state- *and* self-defense reflex in response to the accusations against him during the Ergenekon process.

While the accounts of both actors included an acceptance of JİTEM's existence, both pursued *control* and *regulation* strategies regarding the information about JİTEM. Therefore, both refused responsibility for JİTEM's activities despite their acceptance of the organization's existence. On the one hand, Teoman Koman refuted the organization's relationship with the gendarmerie forces and military officials. According to him, JİTEM was a gang organization carrying out illegal activities in the region using the gendarmerie name.

On the other hand, Arif Doğan, a decade later, offered statements contradictory to Koman's verbal performance. In his statements during the Ergenekon investigation and with his book and media appearances, he declared himself the founder of JİTEM and asserted that he had illegally established JİTEM within the JAK of the OHAL Governorate. His confession clearly revealed JİTEM's connection with the army and military officials, but it never acknowledged the illegal activities carried out by JİTEM against civilians. Accordingly, JİTEM, which he had founded, fought only against PKK militants in the mountains and was not, he alleged, involved in any crimes against civilians. However, he implied that his successors in office might be responsible for JİTEM's illegal activities.

The *control* and *regulation* strategies embraced by Koman and Doğan, in fact, serve an innocent and sterilized imagination of the state and JİTEM to make the JİTEM debate more plausible in the public eye. In this new situation, where the existence of JİTEM became an indisputable fact, the

state officials' denial strategy swerved towards the plausible denial strategy alongside tacit admission accounts. To make this strategy functional, both actors passed the responsibility for JİTEM's illegal activities to other actors inside or outside the state, employing the tactics of *denial of responsibility* and *denial of knowledge*.

Chapters 5 and 6 will next provide significant information that clarifies *who* the other – or the main responsible – actors are. In this regard, the following two chapters' main focus will not be the discussion of the existence of JİTEM but rather the shadowy relationship established between its military officials and civilian collaborators and the organization's extra-judicial activities.

5. Between Tacit Admission and Admission: Ultra-Nationalist Collaboration Behind JİTEM Atrocities

5.1. Introduction

So far, I have analyzed the accounts of military officials in the JİTEM debate on a scale between official denial and tacit admission of the organization's existence. In this and the next chapter, I additionally include accounts of some civilian JİTEM recruits: a hitman, a village guard, and a repentant. The main question of Chapters 5 and 6 is the following: How was the collaboration between military officials and civilians established under the roof of JİTEM? As this question requires an in-depth analysis of the civilian actors' accounts to demonstrate their motives behind their participation in JİTEM, the main focus of Chapters 5 and 6 will be the discussion of JİTEM's activities rather than the debate of its existence.

Looking at the overall motivation accounts of civilians to join JİTEM, I conclude that three main self-reported reasons stand out: (1) volunteering, (2) compulsion, and (3) duty. Accordingly, some were convinced that they were doing the right thing for the sake of their country from a patriotic stance, some had no choice between the state and the PKK, and some simply did what they were asked to do. While this chapter will focus on how the relationship was established voluntarily as a result of nationalist tendencies, Chapter 6 will focus on accounts of compulsion and duty.

To acquire an understanding of how this nationalist cooperation was established between military officials and civilians, I will apply the *rational self-interest* model of genocide studies professor James Waller (Waller, 2002, p. 190) to my analysis for investigating the primary motives of nationalist perpetrators in partaking in extra-judicial violence. Waller argues that two levels of rational self-interest must be considered: professional self-interest and personal self-interest.

Waller explains *professional self-interest* with the assertion that most of the violent acts in the world have been carried out by a military or paramilitary organization (Waller, 2002, p. 191). Becoming part of such organizations requires professional training and comes with pride in belonging to a specific group. If that pride complies with the broader political and social interests of a nation, nationalist ambitions of professional soldiers can contribute to or exceed every type of advancement and careerism for the sake of the country.

Professional self-interest cannot be considered separately from personal self-interest. Building on the works of Holocaust researchers John Steiner (Steiner, 2013) and George Browder (Browder, 1996), Waller contends that there is a close relationship between particular identity profiles and particular organizational involvements. Accordingly, "certain persons join certain organizations" (Waller, 2002, p. 193), which means that individuals with specific orientations (ideological, religious, etc.) join organizations that serve their orientations.

Browder elaborates this close relationship between specific persons and specific organizations with *ego-organizational links* (Browder, 1996, p. 171). Some people tend to participate in some organizations to satisfy their egotistic needs, and some organizations provide the required ground for these persons to strengthen their self-esteem and benefit from their self-commitment. This relationship, which is established voluntarily, also gives dedicated individuals a chance to legitimize their acts under the shield of an organization (Waller, 2002, p. 205).

In the below accounts of Cem Ersever and Mahmut Yıldırım, the primary binding factor for ego-organizational links between official or civilian individuals and JİTEM appears to be nationalist-ideological commitment. Referring to the unpublished work of social psychologist Robert Zajonc, Waller highlights the role of moral imperatives that are more congruent with *motives* than with *rationalizations* (Waller, 2002, p. 187). In his study giving an in-depth analysis of ethnic cleansing from a comparative perspective through the examples of Armenia, Nazi Germany, Cambodia, Yugoslavia, and Rwanda, Michael Mann also asserts that theories emphasizing rationalization to explain the motivations behind perpetrator acts are useful but limited (Mann, 2005, p. 23). As both scholars stress, moral imperatives can be catalyzed by political power, socio-economic circumstances, religious zeal, and nationalist ideologies as critical factors motivating an individual to act in certain ways (Waller, 2002, p. 187; Mann, 2005, pp. 27–29). One of the most critical areas where these moral imperatives can operate is in state law, where the rule *of* law itself can be instrumentalized by political power to strengthen rule *by* law with the aim of expanding and legitimating the exceptional authority of the state to act urgently beyond the limited area of state law.

As detailed in Chapter 3, Turkey's OHAL practice during the long 1990s is a fitting example to show how moral imperatives operated in the instrumentalization of state law in the name of

national security. OHAL rule alone did not only extraordinarily transform the law in northern Kurdistan; it laid out an exceptional groundwork for illegal activities of military and paramilitary forces. I argue that the emergence of illegitimate violence in this exceptional ground was easily realized with the nationalist devotion of military and paramilitary forces. The following accounts of military official Ahmet Cem Ersever and civilian hitman Mahmut Yıldırım will exemplify how the nationalist ideological commitment was effective in establishing shadowy relationships between military officials and civilians.

5.2. Ahmet Cem Ersever – *ACE*

Image 5.1: Ahmet Cem Ersever (1950–1993) (Faili Belli, 2013b)

5.2.1. A Short Biography

Ahmet Cem Ersever was born in Erzurum on 6 June 1950. His father, İzettin Ersever, was also a military official with the rank of lieutenant, as Cem Ersever would become years later. Ersever finished his primary and secondary education in various parts of the country due to his father's military career. After completing his high school education at Ankara TED College in 1967, he first enrolled in the Ankara Press and Broadcasting School in 1967, but then stopped his education there and switched to the Ankara Academy of Economic and Commercial Sciences in 1969. He changed his mind again in the same year and enrolled in the army. Ersever graduated from the Turkish

Military Academy in 1972 with the rank of second lieutenant. His first assignment of duty was İstanbul. Then he graduated from the Infantry School in 1973 and from the Gendarmerie Officer School in 1974. His first post in the Southeast was the Silopi district of Mardin, where he was appointed as Gendarmerie Lieutenant in 1975 (Ağaşe, 2003, p. 30). In Silopi, Ersever's nationalist thoughts and practices led to tension between local Kurds and himself. As this tension increased, the TSK took Ersever out of duty in 1977 and sent him to the Foça Commando School in İzmir to complete special warfare training (Kılıç, 2009, p. 26). On 11 December 1979, he was reappointed to an active post by the Gendarmerie General Command with the rank of captain (Ersever, 2007a, p. 9). His duty area covered eight provinces (İçel, Hatay, Gaziantep, Mardin, and Şanlıurfa in the east and Edirne, Kırklareli, and İzmir in the west), where he was charged with investigating smuggling activities. Upon his success in gathering intelligence on smuggling networks, he was appointed to Trabzon province in northern Turkey with a similar mission in 1980. After the PKK's armed actions started in 1984, he was appointed to the OHAL region as a senior captain in 1989. His mission included doing intelligence work to combat terrorism, smuggling, and organized crime in the Southeast (Ağaşe, 2018). According to Arif Doğan's claim in his 2011 book, in 1990, Cem Ersever was appointed as the head of the intelligence command in Diyarbakır after Doğan had completed his duty (Arif Doğan, 2011, p. 105). The last post of Ersever's military career was the Gendarmerie General Command in Ankara as intelligence group commander in 1992. Ersever, together with thirty comrades, resigned from the army on 17 March 1993, protesting the deficiencies of the state in combating terrorism in the Southeast (Ersever, 2007a, p. 10). Following his resignation, Ersever announced that he would share with the public the state weaknesses in the Kurdish issue that had caused his resignation and he wrote two books explicating these weaknesses under the pseudonym Ahmet Aydın in 1993: *Kürtler, PKK ve Abdullah Öcalan* ("Kurds, the PKK, and Abdullah Öcalan") and *Üçgendeki Tezgah* ("Conspiracy in a Triangle"). Nevertheless, his public speeches and interviews with several magazines and newspapers led him to be tried by the General Staff Military Court for revealing military secrets. The consequences were much heavier than a military trial. On 24 October 1993, the day before he was expected to appear in court in Ankara, he mysteriously disappeared, and his dead body was found on a deserted road in Ankara on 5 November 1993 (Panorama, 1993). The Ersever Murder is still unresolved.

5.2.2. Ersever's Discursive Formation

Cem Ersever is one of the first three military names to come to the fore in the JİTEM debate together with those of Veli Küçük and Arif Doğan. Considering the chronology of accounts among my chosen six actors, Ersever emerges as the first official to make statements on JİTEM. However, as a result of his unexpected death in 1993, his statements remained unsupported claims for many years until the debate about JİTEM flared up again with the Susurluk Scandal in 1996 and the Ergenekon investigation in 2007.

The JİTEM narratives revealed during these historically crucial moments showed that Ersever's statements to the press about JİTEM after his resignation in 1993 still provide the most comprehensive confessional account of an official about the organization.

In this section, I will dissect Cem Ersever's discursive formation considering his accounts on nationalism and JİTEM. To explore his nationalism and his Kurdish policy, specifically, I will scrutinize his books – *Kurds, the PKK, and Abdullah Öcalan* and *Conspiracy in a Triangle*. The first editions of the books, which are continuations of each other, were released in 1993 after his resignation. Both books not only provide a perspective on Ersever's nationalism but also enable the reader to grasp his overall criticism about the deficiencies of the state's COIN policies. Apart from these books, I will also include Ersever's resignation statement as the primary source explaining why he left the military.

Ersever also shared accounts on JİTEM during his interviews with various print media – *Aydınlık*, *Tempo*, *Tercüman*, and *Turkish Daily News*. Among them, the most comprehensive interview was published in the left-wing daily *Aydınlık* with the signatures of journalists Hikmet Çiçek and Soner Yalçın between 11 June and 14 June 1993 (H. Çiçek & Yalçın, 1993a, p. 11, 1993b, p. 11, 1993c, p. 11, 1993d, p. 11). As mentioned in Chapter 3, Soner Yalçın was the first journalist to report on JİTEM in 1992 (İkibin'e Doğru, 1992b). As revealed after Ersever's death, Ersever had actually told Yalçın much more than what was published in *Aydınlık* in their secret meetings. Yalçın published those secret interviews in a book entitled "Major Ersever's Confessions" (*Binbaşı Ersever'in İtirafları*) in 1994. Since Ersever's most detailed narrative about JİTEM is found in this book, I will focus on this book while analyzing his statements about JİTEM.

Apart from these primary sources where we can hear Ersever's own voice, I will also utilize the detailed analyses of investigative journalists Çetin Ağaşe (Ağaşe, 2003, 2009) and Ecevit Kılıç

(Kılıç, 2009) about Cem Ersever and his verbal performance. Although much of Ersever's narrative in the primary and secondary sources was repeated, and confirmed in Doğan's book, Ersever's confessional statements were much more detailed, explaining how JİTEM's relationship was established with repentants and nationalist civilians.

Ersever first appeared in the recent history of Turkey as events in Silopi in 1976 became reported in the Turkish media. As I briefly mentioned in Chapter 3, Silopi is a Kurdish district sitting at a critical geopolitical position on the border between Turkey, Syria, and Iraq (see Map 3.3). The TSK sent Ersever there as Gendarmerie Lieutenant in 1975, in a period prior to the establishment of the PKK when there was no armed conflict yet.

Nevertheless, at the very beginning of his military career, the extreme nationalist attitudes that Ersever exhibited in Silopi gave clues to his future actions regarding the Kurdish issue. According to the report of *Cumhuriye*t, Ersever was acting like a leader of the Grey Wolves rather than a military official in the district (Cumhuriyet, 1976). He did not hesitate to reveal his ultra-nationalist commitment. For instance, even though the district was predominantly Kurdish, he attempted to open a branch of the *Ülkü-Bir* Association, which had close links to the MHP, and explicitly expressed that "Silopi is the land of Başbuğ[55] Türkeş, not communist Ecevit" (Kılıç, 2009, p. 24).

Ersever's ultra-nationalist and provocative acts sparked a public reaction in Silopi on 25 December 1976. Critically, Ersever chose to express his nationalism without a concern about how the local Kurdish population would react. Indeed, he seemed intent on provoking them. He ordered, for instance, his units to fire on protesters at a time when the tension between him and the local people was increasing. As a result, three people were wounded, and the incident caused a countrywide public and political outcry.

Silopi district heads of the political parties CHP, AP (Justice Party, *Adalet Partisi*), and MSP (National Salvation Party, *Milli Selamet Partisi*) prepared a joint telegram with the mayor and some *muhtar*s to be sent to the President, Prime Minister, and Commander of the Turkish Gendarmerie

[55] In nationalist circles, *başbuğ* means "Chief" and is mostly used to denote the founding father of the MHP, Alparslan Türkeş (1917–1997).

Forces. This telegram contained serious complaints about Ersever's "separatist (*bölücü*)" attitudes in the region (Cumhuriyet, 1976). The use of the word "separatist" for a state official in the telegram is of particular importance because, with the start of the PKK's armed actions, the state would often use this slur to characterize PKK militants and sympathizers.

CHP Mardin Deputy Nurettin Yılmaz launched a local investigation on the incident and organized a press release to share the concluding remarks of the inquiry on 24 January 1977. Yılmaz's press release included severe statements on Ersever's personality and nationalism. Yılmaz, who accused Ersever of provocation, continued:

> Ersever seems to have acted as if his superiors were instructed not to touch him. […] He is a psychopath who did not hesitate to say, "I will not leave Silopi without destroying eight-tenths of the Kurds living here." […] Gendarmerie Lieutenant Ersever has to be treated by a psychiatrist (Ağaşe, 2003, pp. 36–37).

The first sentence of the quote suggests a kind of impunity cover for Ersever. Yılmaz highlighted that Ersever had acted as if there was no authority over him to criticize or try him even if he made it clear that he would destroy the Kurds living in Silopi.

The impunity implication by Yılmaz came true in time. While Ersever was tried in the military court on charges of opening fire on three people, the process would result in only a nine-month suspension from duty. He would spend that period at the Foça Commando School, completing his education on special warfare training. This process rewarded Ersever rather than punishing him: The rank of Lieutenant Cem Ersever was advanced to Captain, and he was appointed to his new position for investigating smuggling activities in eight provinces in the east and west (Adıyaman, Hatay, Gaziantep, Şanlıurfa, Mardin, Edirne, Kırklareli, İzmir) (Kılıç, 2009, p. 26).

As discussed in Chapter 3, in order to associate JİTEM Group Commanders with the ÖHD, repentant Abdülkadir Aygan highlighted some biographic similarities among these commanders related to their special training in the Foça district of İzmir and their relationships with ultra-nationalist circles and ideologies. Although his nexus with the ÖHD has not been officially verified yet, both the ultra-nationalist attitudes of Lieutenant Ersever in Silopi and his participation in the

special warfare training at the Foça Commando School confirm Aygan's allegations for the Ersever biography.

The nationalist attitude that Ersever demonstrated in Silopi would not be the first or last in his career. Interestingly, he would return to Silopi as the JİTEM Silopi Team Commander again in the early 1990s. Before continuing with Ersever's accounts on JİTEM, I will examine his nationalism in light of his own writings with the hope of offering another perspective on how this agency operates in the larger JİTEM controversy. In this case, it is the agency of an explicit Turkish nationalist whose hostility toward the people he was commanded to "protect" resulted in overt violence.

5.2.3. On Nationalism

In his book entitled *Kurds, the PKK, and Abdullah Öcalan*, Ersever defined himself as a cultural nationalist who dealt with the Kurdish issue within the framework of cultural nationalism. He notes:

> My nationalism is cultural, which takes its roots from the idea of unity in language, thought, and work. In this picture, everybody [*living in Turkey, Ed.*] must obey the Anatolian culture since this culture has survived as the Turanian culture for five thousand years. Lazs, Circassians, Tatars, Azeris, Kurds, Turkmens are part of this culture.[56]

Based on this idea, there was no Kurdish problem in Turkey for Ersever. He argued that there were only two problems with the Southeast and the Kurds: (1) the organizational problem of the Turkish state in the Southeast, and (2) the Kurds being provoked by foreign powers. Considering the organizational problems, Ersever actually referred to the infrastructural incapacity of the state in northern Kurdistan. Accordingly, he asserted that the Turkish state did not properly organize itself in economic, cultural, legal, social, educational, and administrative realms in the Southeast as it had achieved in the West:

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[56] "Benim milliyetçiliğim, kültür milliyetçiliğidir. Milliyetçiliğimin temelinde dilde, fikirde, işte birlik vardır. Anadolu kültürüne herkes uymak zorundadır. Çünkü bu kültür beşbin yıllık Turan kültürüdür. Laz'ı, Çerkez'i, Tatar'ı, Azeri'si, Kürt'ü, Türkmen'i bu kültürün içindedir" (Ersever, 2007a, pp. 13–14).

> Laws of the Republic of Turkey practiced in the West have not reached the Southeast. Those that reached it by mistake have been made obsolete. This disorder eventually created a separate cultural environment in the Southeast. So, there is an organizational problem of the Republic of Turkey in this region.[57]

Second, Ersever blamed Britain, France, Germany, Iran, Syria, and Iraq for the creation of the so-called Kurdish question (Ersever, 2007a, p. 96). He described these countries as *Contemporary Lawrences*, evoking the memory of the Ottoman Empire's years of disintegration when Arab nations had pursued an independence campaign against the Empire with the support and manipulation of British army officer T.E. Lawrence (Ersever, 2007a, p. 44). Thus, Ersever accused the abovementioned countries of aiming to divide Turkish society into camps and provoking the Kurds to pursue independence in their own interests. Undoubtedly, Ersever's approach overshadowed the agency of Kurds as separate people capable of making their own decisions, so much so that he rationalized the famous insulting expression used against Kurds in Turkey, "Kurds can be provoked so easily," with the weakness of the Kurdish people: "The idiom is true: 'Weak societies heroize their bandits and adore them.' The weakness here originates from cultural, social, economic, and political flaws" (Ersever, 2007a, p. 106).

He evaluated the PKK's emergence with the same logic: the PKK was established by the provocation of foreign powers among the weak Kurdish society. In this regard, he distinguished the PKK problem from the Kurdish issue. For him, the PKK was a gang of murderers, and "[i]t is the PKK that created the Kurdish problem, but the Kurds never created the PKK" (Ersever, 2007a, p. 32). He also refuted the claims that the state oppressed the people in the Southeast. According to Ersever, the main actor of the oppression was the PKK itself: The PKK collected money from people under the name of "party aid" or "fines" – the latter levied against Kurds who collaborated with state forces – and those who refused to pay were even killed (Ersever, 2007a, p. 16). Ersever also had a theory explaining why individuals continued to join the PKK despite the organization's cruelty toward people. He again prioritized the social and economic deficiencies in the region:

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[57] "Türkiye Cumhuriyeti'nin batısındaki yasalar Güneydoğu'ya uğramamıştır. Yanlışlıkla yolu düşenler ise metruk hale getirilmiştir. Bu düzensizlik giderek ayrı bir kültür ortamı yaratmıştır. Bu bölgede Türkiye Cumhuriyeti'nin örgütlenme problemi vardır" (Ersever, 2007a, p. 17).

> Key motives for participation in the PKK, on the one hand, are poverty, unemployment, landlessness, Che Guevara and Giap role modeling, and the courage of ignorance. On the other hand, pressures, immoralities, taxation, and profiteering within Kurdish tribes are also crucial factors.[58]

With regard to the party leader of the PKK, Abdullah Öcalan, Ersever considered him as a mentally retarded and megalomaniac individual (Ersever, 2007b, p. 66). He argued that Öcalan was a person who properly knew how to take advantage of people's complexities and weaknesses and manipulate them with promises of position and authority in the organization (Ersever, 2007a, p. 132). Ersever claimed that Öcalan was organizing party congresses to purportedly demonstrate the democratic functioning within the PKK, but in fact, he was using those gatherings to intimidate those with opposing views:

> The main aim [*at these meetings, Ed.*] is to put people into various forms of psychosis by intimidating, threatening, and suppressing them. […] APO[59] wears two masks at these meetings: The first mask is a sadistic and despotic face, and the other one is an innocent and benevolent face. On the one hand, he oppressed and crushed people in the circle of death he established. […] On the other hand, he was pretending to be a poor person who was crushed by all the developments, and no one helped to lift the burden on him.[60]

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[58] "PKK'ya katılımların temelinde yoksulluk, işsizlik, topraksızlık, Che GUEVERA, GİAP özentileri ve cahil cesareti nasıl önemli motiflerse, aşiretler içindeki baskılar, ahlaksızlıklar, vergilendirme, talancılık ve vurguncu düzen de önemli faktörlerdir" (Ersever, 2007a, p. 20).

[59] Apo is the nickname used for Abdullah Öcalan among both Kurds and Turks.

[60] Temel amaç, insanları çeşitli baskılar ile sindirme, tehdit etme, baskı altına alarak suçluluk psikozuna sokmaktı. [...] Bu toplantılarda APO, iki maske takınıyordu. Birinci maske; sadist ve despot bir surattı, ikincisi; masum bir iyilik meleğiydi. Bir yandan insanları kurmuş olduğu ölüm çemberinde sindirip eziyordu. [...] Diğer yandan tüm gelişmelerin altında ezilen, üzerindeki yükü kaldırmak için kimsenin yardım etmediği, ucundan tutmadığı bir zavallı oluveriyordu" (Ersever, 2007a, p. 135).

Ersever also asserted that Öcalan's two-faced personality needs to be examined by psychologists (Ersever, 2007b, p. 66).

When Ersever resigned from his military position on 17 March 1993, he announced that he would later share the state's wrong policies on the Kurdish issue with the public, which were also the reasons for his resignation. The expected statement came on 5 June 1993, where Ersever criticized the state's domestic and foreign policy regarding the Kurdish issue with eight articles. As in his books, he again underlined in these articles that there was no Kurdish problem in Turkey, only the problem of the PKK. Criticizing all state attempts at negotiating with the PKK, he argued that the conflict started in 1984, as guerrilla warfare in the mountains must be finished in the mountains. Defending a radical armed struggle against the PKK, Ersever implicitly condemned other peaceful solutions – those presided over by Turgut Özal and supported by a moderate wing in the army – as treason (Ağaşe, 2003, pp. 127–129).

Analyses of Ersever's books and his resignation statement are crucial since they are first-hand views on the Kurdish problem from a military official who worked in northern Kurdistan for thirteen years. These analyses also show that Ersever was not an accommodationist about the Kurdish issue. On the contrary, while highlighting the state's infrastructural incapacity in the Southeast for the birth of the Kurdish problem on the one hand, he also supported the radical idea that the state must not make any social or economic investments to fix its incapacity in the Southeast unless the TSK eliminated the PKK problem. Otherwise, he argued, people living in the region would perceive the investments made as a success of PKK policy (Ersever, 2007a, p. 27). Ersever's vision actually stemmed from the effective law-making capacity of the PKK vis-a-vis the Turkish state's infrastructural incapacity to maintain its law-preserving power in the region. As mentioned in Chapter 3, PKK violence emerged with law-making characteristics with all of its challenging policies (e.g., people's courts, conscription law, tributes demanded from local people) against the law-preserving power of the state.

As a military official with such a clear agenda on Kurdish and PKK issues, how did Cem Ersever get involved in JİTEM? I will seek an answer to this question at the point where Ersever's personal self-interests as a committed nationalist coincide with his professional self-interests as a high-ranking military official with a clear agenda against terrorism. The main question here is: How far could Cem Ersever overstep the legal line to satisfy his interests?

5.2.4. On JİTEM

Ersever worked for gendarmerie intelligence between 1979 and 1989 to suppress troubling smuggling activities. Drawing from these experiences, he learned of the many deficiencies in the intelligence branch of the Gendarmerie Command. As the deadly clashes between the TSK and the PKK escalated in this period, Ersever considered the removal of these deficiencies to be mandatory. Toward this aim, he prepared a military report highlighting the problems within the intelligence branch and proposed a solution plan in 1985, prior to the declaration of the OHAL rule (Ağaşe, 2003, pp. 108–112).

In this report, Ersever disclosed two underlying problems regarding the ineffectiveness of the gendarmerie intelligence branch. The first one was about the scope of authority, while the second one dealt with the area of authority. According to Ersever, the existing intelligence units were only collecting clippings from newspapers and magazines and presenting them as intelligence to commanders. He found this method ineffective and believed the units needed an additional operational authority, which meant that the units would both gather intelligence and carry out operations required by that intelligence. Ersever's suggested solution was to organize a separate unit equipped with both intelligence and operation authorities under the Intelligence Directorate of the Gendarmerie General Command (Ağaşe, 2003, p. 111).

The second suggested solution was related to the definition of the operation area for the proposed intelligence and operation unit. He suggested that the area of operational limitations for police and gendarmerie forces be removed for this unit. Normally, duty areas of law enforcement bodies were separated as urban areas for police forces and rural areas for gendarmerie forces in Turkey. According to Ersever's report, the unit should be allowed to operate throughout the entire country and even abroad if necessary (Ağaşe, 2003, p. 108). Considering JİTEM's organizational structure as reviewed in Chapter 3 and Arif Doğan's confession in Chapter 4 that he founded JİTEM with Cem Ersever, it is quite obvious that Ersever's report was taken into high consideration in the formation of JİTEM in 1987.

In his secret interview with Yalçın in 1993, Ersever made a claim very similar to Arif Doğan's statement in 2011: "I was the founder of JİTEM, I was the boss of the organization" (Yalçın, 2003,

p. 52). With this confessional statement, Ersever not only confirmed the existence of JİTEM but also acknowledged victims' relatives' allegations linking him to JİTEM and JİTEM's dirty work. Indeed, as discussed in Chapter 3, after the Cizre district, the most cases of murder and disappearance were observed in the task area of JİTEM's Silopi Team Command, where the team leader was Ahmet Cem Ersever. The inhabitants of the Silopi district were already familiar with him because of his actions in 1975. As mentioned earlier, Ersever had been only a lieutenant at that time and yet became notorious among those with whom he interacted.

In 1989, Ersever returned to Silopi with the rank of major. Thus, he was more authorized to initiate even more severe policies than his actions in 1975. He earned the nickname "ACE" during this period, an acronym of his initials (Ahmet Cem Ersever). ACE was actually a popular detergent brand in Turkey in the 1990s, and he cultivated the association with this nickname by modifying the detergent's ad campaign with the following slogan: "The most effective detergent against terrorism is *ACE*" (Kılıç, 2009, p. 65).

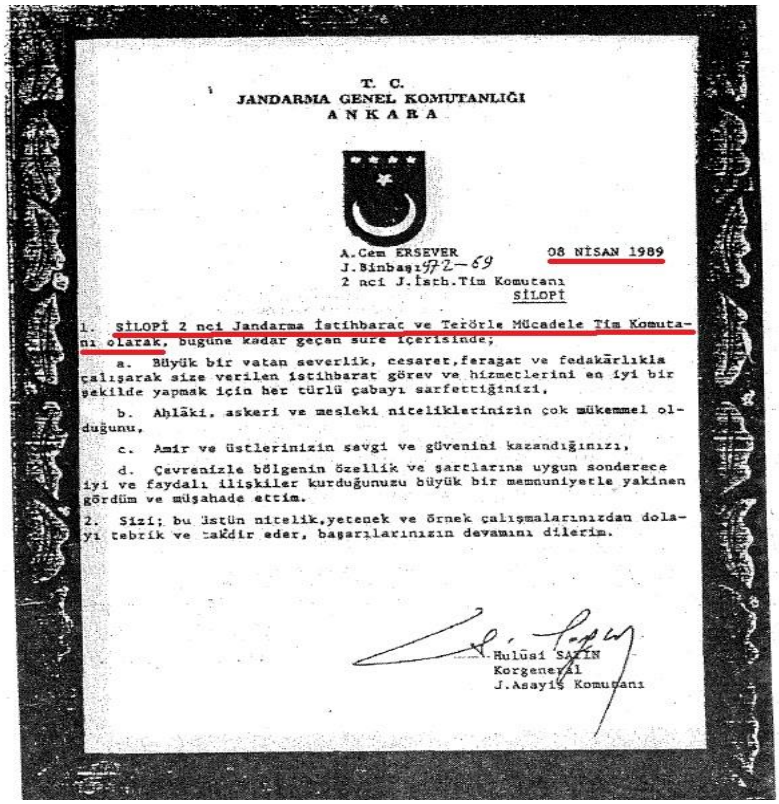
While crude and emblematic of his self-conscious presentation as the violent side of state policies to suppress the PKK, Ersever's choice of references reflects a deeper narrational logic. It could be read as a continuation of Turkey's early years, when the ruling elite, promoting violence to forge a unified state, adapted an ideology that reduced society to a living organism. In these terms, as discussed in Chapter 2, everything that threatened the national organism was characterized as a germ or tumor that needed to be violently removed. With his nickname, Ersever likewise tackled terrorism like a microbe to be destroyed, and he suggested his own methods as the most effective cleaning agent to do so.

Cem Ersever was the first high-ranking official to talk about JİTEM, but he was also the first one producing confusing statements that oscillated between denial and admission of JİTEM. As already seen in Chapter 4, similar statements would reappear in the narratives of Teoman Koman and Arif Doğan in the following years. However, Ersever's accounts were more ambiguous compared to the latter two. While Koman's and Doğan's accounts seemed more certain, especially in terms of moving the JİTEM issue beyond the army's domain, Ersever's accounts prove more evasive and ambiguous by design.

First of all, in his interviews after resigning, it is apparent that although he acted cautiously when talking about JİTEM and COIN issues, he did not hesitate to put forward contradictory statements. For example, in the later stages of the same interview with Yalçın, like Teoman Koman, he stated that the name "JİTEM" was a misnomer (Yalçın, 2003, p. 90). Furthermore, like Arif Doğan, he also confirmed that JİTEM was an organization that had been temporarily established and then removed; thus, the actual name to be used was Gendarmerie Intelligence Group Command (JİGK) (Yalçın, 2003, p. 90).

However, two official documents included in investigative journalist Çetin Ağaşe's book on Cem Ersever contradict not only Ersever's statements but also Koman's, Doğan's, Bigalı's, and, in a broader sense, the General Staff's account about the legality and existence of such an organization called JİTEM in the gendarmerie body. These documents are official appreciation letters (see Images 5.2 and 5.3), in which then-JAK Commanders Hulusi Sayın and Hikmet Köksal thank Ersever for his duty in JİTEM.

Image 5.2: Certificate of Appreciation I (8 April 1989) (Ağaşe, 2009, p. 265)



T. C.
JANDARMA GENEL KOMUTANLIĞI
A N K A R A

A.Cem ERSEVER 08 NİSAN 1989
J.Binbaşı 72-69
2 nci J.İstb.Tim Komutanı
SİLOPİ

1. SİLOPİ 2 nci Jandarma İstihbarat ve Terörle Mücadele Tim Komutanı olarak, bugüne kadar geçen süre içerisinde;

a. Büyük bir vatan severlik, cesaret, feragat ve fedakârlıkla çalışarak size verilen istihbarat görev ve hizmetlerini en iyi bir şekilde yapmak için her türlü çabayı sarfettiğinizi,

b. Ahlâki, askeri ve mesleki niteliklerinizin çok mükemmel olduğunu,

c. Amir ve üstlerinizin sevgi ve güvenini kazandığınızı,

d. Çevrenizle bölgenin özellik ve şartlarına uygun sonderece iyi ve faydalı ilişkiler kurduğunuzu büyük bir memnuniyetle yakinen gördüm ve müşahade ettim.

2. Sizi; bu üstün nitelik, yetenek ve örnek çalışmalarınızdan dolayı tebrik ve takdir eder, başarılarınızın devamını dilerim.

A. Hulusi SAYIN
Korgeneral
J.Asayiş Komutanı

Image 5.3: Certificate of Appreciation II (22 February 1990)(Ağaşe, 2009, p. 267)

A.Cem ERSEVER
J.Mab. 992 - 69
J.İstih. ve Ter.Mücadele Tim K.

22 ŞUBAT 1990

SİLOPİ
MARDİN

1. Göreve bağladığım tarihten bugüne kadar geçen süre içerisinde, SİLOPİ Jiteam-2 Komutanı olarak;

a. Jandarma İstihbarat ve Terörle Mücadelede, size verilen görevleri başarı ile yaptığınızı,

b. Sorumlu olduğunuz bölgede veya ihtiyaç duyulan diğer bölgelerde, istihbarat faaliyetleri ile değerlendirilmesi ve yönlendirilmesinde cesaret ve feragatla çalıştığınızı,

c. İç Güvenlik Harekatının başarı ile yürütülmesinde ve operasyonların (nokta operasyonları dahil) planlanmasında ve icra edilmesinde etkin rol oynadığınızı,

d. Amir ve üstlerinizin güven ve takdirini kazandığınızı,

e. Bölge ve yöre halkının mevcut durumu nedeniyle özellik arzeden istihbarat faaliyetlerini, azim ve kararlılık içinde en olumsuz şartlar altında dahi başarı ile yürüttüğünüzü,

f. Kendi bölgenizde veya diğer bölgelerdeki ilgili birimlerle koordine içinde bulunarak, takip ve kontrol ederek hizmetin daha etkin yapılmasında katkınızın büyük olduğunu gördüm ve müşahade ettim.

2. Sizi; başarılı çalışmalarınızdan dolayı takdir ve tebrik eder, başarılarınızın devamını dilerim.

BİLGİSAYARA İŞLENMİŞTİR

Hikmet KÜKSAL
Korgeneral
J.Asayiş Komutanı

In both documents, Cem Ersever, being the Silopi Team Commander of JİTEM, is thanked for his patriotism and success in the region.

Another ambiguity in Ersever's accounts was his approach to the *Kontrgerilla* issue:

> With the use of the *Kontrgerilla* word, if you are referring to an organization engaged in illegal activities, I object to this use of the word. However, if you are referring to the person who acts as a guerrilla and struggles against guerrillas in this way, yes, we had to do that.[61]

In this excerpt from Ersever's 1993 interview, it is seen that he followed a similar distraction strategy as Teoman Koman for the *Kontrgerilla* phenomenon. Accordingly, he did not directly

[61] "Kontrgerilladan yasadışı faaliyetler yapan bir kuruluş kastediliyorsa buna itiraz ediyorum. Ama gerilla gibi davranıp, gerillayla mücadele eden kişi kastediliyorsa evet bizler bunu yapmak zorundaydık" (Yalçın, 2003, p. 90).

accept the claim that *Kontrgerilla* squads were formed within the state and that these teams were involved in many illegal actions. However, Ersever's *Kontrgerilla* depiction as a "person who acts as a guerilla" implicitly acknowledged the false-flag operations of the state. Thus, it was the first time in the JİTEM debate that a high-ranking official accepted that some officials and/or paramilitaries wandered around in guerrilla clothing to conduct COIN operations.

As will be seen again in the section of this chapter devoted to Mahmut Yıldırım and in Chapters 6 and 7, this information was emphasized in many subsequent paramilitary perpetrators' accounts and confessions, especially in the confessions of some PÖH and JİTEM members, which circulated in the 2000s, claiming that they had been dressed like PKK guerrillas and were involved in many violent extra-judicial operations as a part of the state's COIN strategy.

Cem Ersever also provided important information about how former PKK militants, benefiting from the Repentance Law, and nationalist civilians were recruited into JİTEM. He explicitly admitted that it was his idea to integrate PKK defectors into JİTEM. For him, the main reason behind this idea was that vetted former members knew the PKK and the regions where the organization's militants operated very well (Yalçın, 2003, p. 162). He also admitted that the repentants working for JİTEM were staying in the OHAL Governorate's lodgings, which, in fact, were officially allocated for the OHAL Governorate and JAK staff (Yalçın, 2003, p. 160).

In addition to these admissions, Ersever also stated that these repentants committed crimes to serve their own interests over time. Among their crimes were heroin and arms smuggling, racketeering, robbery, and the trade of stolen automobiles (Yalçın, 2003, pp. 160–161). As I highlighted in Chapter 4, linking the crimes attributed to JİTEM to a separate group that consisted of repentants outside the army was a kind of verbal performance that was frequently repeated in the state's plausible denial strategy. However, the most important point that distinguishes Cem Ersever's accounts from those of Koman and Doğan is that he did not ignore state officials' responsibility in the criminal acts of these reconciled recruits. He overtly drew attention to the collaboration between some officials from both the gendarmerie and local police and the repentants. According to him, the state was well aware of these collaborations but did nothing to disrupt them (Yalçın, 2003, pp. 160–161).

More complicated still was the fact that the state had not only repentants to deal with but also ultra-nationalist civilians who often carried out extra-judicial activities on the state's behalf. Interestingly, while talking about these people, Ersever depicted *Kontrgerilla* in the way that I summarized in Chapter 2, focusing on the relationship between the ÖHD and nationalist civilians:

> Neither the police nor the soldier is *Kontrgerilla* in the way you depict. Let me explain the *Kontrgerilla* in the region. MHP hitmen in the '70s came under the command of the police and military in the following years. These individuals are psychopathic people. If you look at their behavior, you immediately understand that they are psychopaths. They are confident being with the state. They feel strong next to the state and often say that they are committed to the homeland and the nation. […] I think there are about a hundred people in the region. Most of them are hitman, and their only purpose is to fight the PKK. They are a kind of illegal guard, because the state covers their weapons, bullets, and money.[62]

Ersever's description also destroys the official state discourse that had long denied the state's relationship with illegal individuals and formations. According to him, these hitmen were competing with each other to become the state's favorites. The result was that they would kill and torture anyone without hesitation, operating under the names *Türk İntikam Tugayı* (Turkish Revenge Brigade) and *Osmanlı Türk İntikam Tugayı* (Ottoman Turkish Revenge Brigade) (Yalçın, 2003, p. 139). He elaborated by noting that the strongest and the most dangerous of these individuals was Mahmut Yıldırım, who operated under the code name of *Yeşil* ("Green"). I will come back to Yeşil in the second section of this chapter.

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[62] "Bakın, ne polis ne de asker söylediğiniz anlamda kontrgerilla değildir. Evet, bölgede kontrgerilla vardır! Onu şöyle anlatayım: 70'li yıllarda ki MHP tetikçileri bir sonraki dönemde polis ve askerin emrine girdi. Bunlar hasta ruhlu kişilerdir. Davranışlarına bakınca zaten hemen anlarsınız psikopat olduklarını. Bunlar devletin yanında olmaktan güven duyarlar. Güçlü olduklarını hissederler. Sık sık kendilerini vatana ve millet adadıklarını söylerler. […] Bölgede sanıyorum böyle yüze yakın kişi vardır. Bunların çoğu tetikçidir. Tek amaçları PKK'yla savaşmaktır. Silahları, mermileri ve paraları devlet tarafından karşılanır. Bir şekilde illegal koruculardır" (Yalçın, 2003, pp. 138–139).

Ersever probably confessed only a small portion of what he actually knew. However, even that portion that he did express was enough for him to be sued in a military court with the charge of *revealing state secrets*. Ironically, the subsequent efforts to punish Ersever led to his expanding the charges that he publicly made against the system, out of which he himself had come. For example, a voice recording of Ersever's last phone call, released in 2011, years after his death, would confirm that there were still many issues he had not revealed. In this record, Ersever, while criticizing the military court for suing him, emphasized that he could explain many dirty relations, extending to generals in the army:

> They [*the Military Court*] must withdraw their investigation of me. They [*the army*] have messed me up for years. I've been involved in many illegal operations. What I got in return is an investigation on me. Who can prove otherwise if I declare that I've been ordered by the Chief of General Staff for some operations? (Milliyet, 2011).

Before he could expound on these threats to reveal more, Ersever was mysteriously murdered on 4 November 1993. His dead body was found on 5 November 1993, with his hands tied behind his back and two bullets in his head, and it was not the only corpse found at that time. On 2 November, another male corpse had been found in Ankara, and on 7 November, it was revealed that the body belonged to Ersever's close friend, repentant Mustafa Deniz. Moreover, a female body was found on 10 November – that of Ersever's girlfriend, Neval Boz (Aydınlık, 1993, p. 11). All of the bodies were left at three different distant points of Ankara, drawing a triangle as if the murderer(s) referred to the title of Ersever's last book, *Conspiracy in a Triangle*. All of these deaths still remain unsolved at the time of writing this thesis.

5.2.5. Ersever's Verbal Performance

For the first time, a high-ranking military official talked about JİTEM in 1993. This revelation preceded even the mention of the organization's existence in official reports. Thus, the question is: Why did he speak in 1993?

Recall that 1993 was the year in which Ersever resigned from the army. For some reason, he chose to make his initial revelatory statements after that resignation. Considering Ersever's accounts as a whole, I conclude that he pursued a plausible denial strategy, emphasizing that JİTEM was

temporarily created within the gendarmerie and later abolished. As the same discourse would later be adopted by other state officials, Ersever also stated that some civilian individuals, and especially repentants, evoked JİTEM for their own interests.

Interestingly, Ersever's statements so far serve the official strategy of positioning JİTEM's illegal activities beyond the domain of the state. As stated in the accounts of Teoman Koman and Arif Doğan, Ersever was also putting the blame for the illicit activities of JİTEM onto others. These "others" ambiguously appeared as organized people outside the military in the verbal performance of Koman, and as military successors in Doğan's accounts. Thus, both effaced their responsibility for JİTEM's illegal activities. Nevertheless, the issue of "others" was better explained in the verbal performance of Ersever.

However, the majority of state officials, and apparently Ersever, sought to distance JİTEM from the direct involvement of the state; in his interviews, Ersever went beyond this rough narrative. Reading his testimonials closely, I conclude that Ersever offers details about the shadowy relationship established between the state and those reconciled rebels and nationalist hitmen. No doubt, these revelations disturbed state officials.

It is clear that Ersever's explanations of state policy in the OHAL region, from the time when he resigned from the army on 17 March 1993 until his body was found on 5 November 1993, upset the leadership in the military and the state more generally. The army, in particular, had already expressed its discomfort by filing a lawsuit against Ersever, accusing him of revealing state secrets. Shortly after Ersever's death, a statement made by Prime Minister Tansu Çiller revealed just how far up Ersever's statements caused discomfort. In a press release on 14 November 1993, Çiller said: "We are still investigating the murder, but the murder seems to be an internal feud" (Ergin, 1993, p. 24).

Çiller did not explain what kind of internal feud she meant. If she referred to internal conflict among Ersever's legal networks (i.e., relationships with other state officials), this assumption reinforces the impression that Ersever was murdered because of an internal feud within the state because of his unsettling disclosures of state practice in the Southeast. If the Prime Minister was referring to Ersever's illegal networks (i.e., relationships with PKK defectors and nationalist collaborators), this assumption, based on Ersever's narratives about the state's cooperation with

dark groups, accommodates a tacit admission that Çiller acknowledged the state's relationship with illicit groups and activities.

What motivated Ersever to disclose such insider (and obviously sensitive) information publicly? Was the motivation simply to offer criticism of the state's Southeast policy, or did it include some resentment and possible desire for revenge against the state? As Ersever was killed in 1993, it became impossible to learn directly about the motives behind his revelations. To try and understand his motivations, I consider what some investigative journalists have speculated in the years since his murder.

Regarding the question of why Ersever revealed some state secrets after his 1993 resignation, the primary argument that stands out is that he was seeking a change of policy in the fight against the PKK. As a nationalist, he wanted to pressure the state (and military) to adopt tougher measures against the PKK. Indeed, Ersever expressed his discontent with state policies during his public resignation. According to investigative journalist Ecevit Kılıç, Ersever not only criticized state policy towards the PKK but also proposed a solution. According to his plan, a JİTEM battalion would be formed, consisting of military officials, repentants, and village guards who had previously worked for JİTEM (Kılıç, 2009, p. 108). This battalion would live in the mountains like PKK militants (in conformity with the *Kontrgerilla* definition of Ersever), and it would be supported by helicopters. If the Gendarmerie General Command gave the necessary permission to establish this battalion, Ersever promised to defeat the PKK within six months at the latest (Kılıç, 2009, p. 108).

However, the Gendarmerie General Command removed Ersever from his position in the Diyarbakır Gendarmerie Group Command and transferred him to the Gendarmerie General Command in Ankara as intelligence group commander in 1992. This appointment, in fact, meant disabling Ersever in the Southeast even though he had spent years there fighting the state's primary enemy. This unexpected appointment successfully marginalized Ersever. His subsequent resignation and then the initial wave of revelations could be directly linked to this sudden attempt to neutralize him.

The larger context is important to consider as we speculate about why the military tried to restrain Ersever, known for his violent solutions to the PKK problem. As discussed earlier in Chapter 3, under the leadership of President Turgut Özal, the state engaged in peace dialogues with the PKK in 1993. Although these dialogues yielded some positive results, the process did not last long due to

the suspicious deaths of President Özal and some military officials advocating soft policies on the Kurdish issue. As also evident in his above-discussed books, Ersever considered any negotiation with the PKK as a betrayal and thus did not seem compatible with the new soft policy of the state. Ersever continuously criticized state policies after his resignation. In many ways, his attempt to pressure the state (and military officials willing to make peace with the PKK) by way of exposing some of its dirty past had attracted the attention for which he had hoped. However, it seems the response was less conciliatory than he had bargained for.

Apart from the speculation that emphasizes Ersever's disagreement with state policies, the other allegation explaining Ersever's motives to make statements against the state was his love affair with a former rebel. In his interview, Ersever acknowledged that he did not choose to recruit exclusively male former rebels for his special unit but also worked with women (Yalçın, 2003, p. 108). Ersever fell in love with one of them, Neval Boz, whose body was also found in Ankara after his body.

According to the claim of the son of hitman Mahmut Yıldırım, Murat Yıldırım, this woman had great influence on Cem Ersever's approach to the Kurdish issue. While Ersever had more nationalist attitudes toward the Kurdish issue before his relationship with Boz, these attitudes became evidence of his purported shift to being hostile toward the state after his relationship with Boz began (Yıldırım & Emeç, 2009, p. 174). As I will elaborate in the next section, Murat Yıldırım also provided evidence of Ersever's changing attitude after meeting Boz, reinforcing the suggestion of the influence of Neval Boz as one of the reasons for the deterioration of Ersever's relationship with Mahmut Yıldırım.

With all these speculations about the Ersever Murder, it is important to remember that his statements after his resignation had an impact on the JİTEM debate. Despite the fact that he would take most of what he knew to the grave, discussions about JİTEM would once again occupy the attention of various Turkish institutions following the Ergenekon investigation in 2007. Indeed, it was with the reopening of the JİTEM case that Ersever's statements forced others to finally offer their own accounts. I have already evaluated the statements of Arif Doğan as one of the most important actors of this process; in the next chapter, I will add the accounts of a village guard and a PKK defector. However, before moving on to these first-hand accounts, I think it is important to look at the narratives surrounding Mahmut Yıldırım, one of the most important hitmen to come to the fore concerning JİTEM.

5.3. Mahmut Yıldırım – *Yeşil*

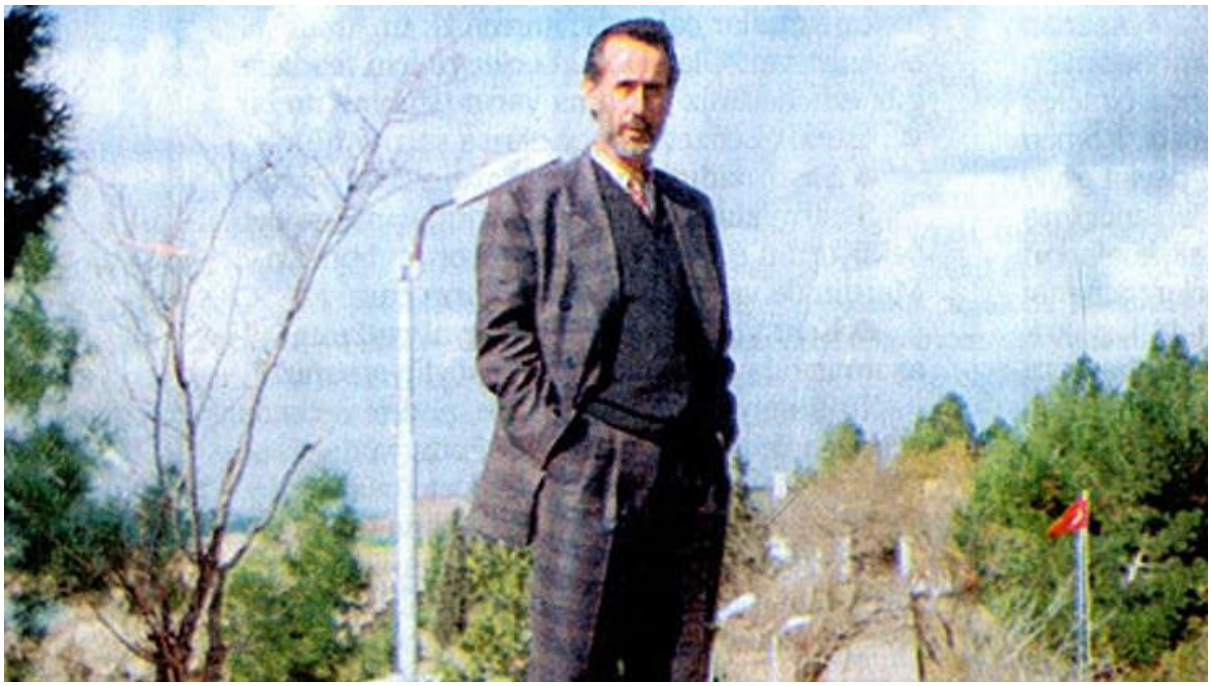

Image 5.4: Mahmut Yıldırım (1951-…) (Duvar, 2018)

5.3.1. A Short Biography

Mahmut Yıldırım, aka *Yeşil* ("Green"), was born to a farming family in Bingöl in 1951. He attended Elazığ Religious Vocational High School in 1968. During his high school years, he became an active member of the Elazığ branch of the Grey Wolves. In 1973, he started to work as an informant for the Genç District Gendarmerie Command in Bingöl. In the same year, the Command transferred him to the Tatvan District Regional Directorate of the MİT in Bitlis for the same task. During his military service in 1974 and 1975, he participated in the Turkish invasion of Cyprus. According to the information given by his son Murat, Mahmut Yıldırım, due to his superior success in the military service, continued to work for the MİT after his service ended in 1975 (Yıldırım & Emeç, 2009, p. 49). He worked for the Tunceli Gendarmerie Regional Command between 1989 and 1991, where he used a fake identity card in the name of Ahmet Demir, who was, in fact, the Tunceli Police Chief. As a result of complaints of Tunceli residents regarding Yıldırım's illegal activities like kidnapping, extortion, and torture, he was removed from the job in 1991. After this dismissal, he worked for the intelligence service of the TBMM for a while in Diyarbakır until he was offered work with JİTEM by Arif Doğan in 1991 (Arif Doğan, 2011, pp. 111–112). He became the best-

known hitman of JİTEM throughout the notorious 1990s. Despite his service for different intelligence organizations over these years, official job records showed him as having been employed at Etibank Elazig Ferrochrome Plants as a worker from 1977 to 1997 (Ağaşe, 2009, p. 191). There is no further news about him since 1997; discussions about whether he is alive or not are still ongoing. Most recently, on 14 November 2018, former Director of the Intelligence Agency of the General Staff İsmail Hakkı Pekin testified as a witness at the hearing of the Main JİTEM and Musa Anter's Murder Trial and stated that Mahmut Yıldırım was alive but undergoing cancer treatment. In spite of that critical knowledge, Pekin also added that he had no knowledge about Yıldırım's actual whereabouts (Welg Medya, 2018).

5.3.2. Yıldırım's Discursive Formation

Considering the state's illegal relationship with non-state agents, Mahmut Yıldırım appears as one of the most controversial figures in Turkey's recent history. Among my chosen six actors, he was also the most difficult one for whom to obtain personal accounts. For this reason, in this section, I will mostly focus on the narratives surrounding Yıldırım rather than his own words.

The only place where he appeared with his own voice was an interview published in the pro-nationalist *Yeni Ufuk* newspaper on 16 July 1997 (Yeni Ufuk, 1997). Apart from this, I came across what is apparently Yıldırım's own voice in two different sources based on the alleged encounters of lawyer Sinan Yerlikaya (Düzel, 2006) and journalist Çetin Ağaşe (Ağaşe, 2009) with Yıldırım. As Mahmut Yıldırım's whereabouts are still unknown, there is no way to confirm the reliability of these three sources. However, since there were also no denial statements regarding the reliability of these sources made by Yıldırım, I will analyze them as the only sources where Yıldırım's voice is heard.

Apart from these controversial sources, the most detailed narrative on Yıldırım is included in a book entitled *Warrior* ("*Savaşçı*") based on the interview of the journalist Cemalettin Emeç with Yıldırım's son Murat Yıldırım. While that book reveals much about Mahmut Yıldırım's personality and nationalism, I will trace Yıldırım's relationship with JİTEM through Arif Doğan's book (Arif Doğan, 2011) and official reports on the Susurluk Scandal (Türkiye Büyük Millet Meclisi, 1997; Savaş, 1998).

Mahmut Yıldırım is also known as *Sakallı* (a Turkish adjective used for bearded men), *Terminatör* (Terminator), and "Ahmet Demir" due to his fake identity card. However, the Turkish public knows him best by the codename *Yeşil*. His son Murat Yıldırım explains in his interview why his father was identified with the code name Yeşil:

> All the names my father used were given by his commanders. It is often claimed that he took the code name *Yeşil* because of his eye color. But this is wrong, because my father's eye color is brown. It is also said that this name was given because of the green coat he wore. My father and his friends were wearing peshmerga clothes to be successful in their intelligence activities. In some villages, they were promoting themselves as PKK militants. Most of the time, they were calling on military aid when they found the real PKK guerillas. So, they were wearing green neckerchiefs to distinguish themselves from the real terrorists. When the soldiers looked through the binoculars, they were thus separating our men from the terrorists (Yıldırım & Emeç, 2009, p. 25).

This explanation confirms Cem Ersever's *Kontrgerilla* description in both an operational and an ideological manner since the *Kontrgerilla*, in Ersever's depiction, consisted of ultra-nationalist civilians – like Mahmut Yıldırım – who conducted and/or participated in false-flag COIN operations.

Between his different nicknames and fake identities, Mahmut Yıldırım's biography reveals that he worked for various intelligence services of the state: the MİT, local gendarmerie intelligence branches, the parliamentary intelligence service, and JİTEM. The continuity in his career with intelligence organizations indicates how indispensable he was for the state. The questions here are: Did the state utilize him, or did he utilize the state in his career, in which he started as an informant but eventually became a famous hitman? What were the common interests between the state and Yıldırım that made him useful and indispensable for the state, or vice versa?

At the intersection of his personal and professional self-interests, the nationalist background of Mahmut Yıldırım, despite his Kurdish origins, provides a clear framework about his ideological commitment to the state and enmity against its foes. In the following, I will discuss how the ego-

organizational links between him and intelligence organizations were formed around his ultra-nationalist motives.

5.3.3. On Nationalism

The psychology scholar Ervin Staub emphasizes the role of cultural preconditions in the formation of perpetrator agencies (Staub, 1999). Cultural preconceptions embedded in the history of a group/society/nation occupy a crucial position in generating a culture of cruelty and, as a result, in the release of violence. Staub explains the construction of cultural preconditions in a devaluation relationship with certain groups and their members. This relationship originates from the human tendency to create a separate identity in the face of others. This tendency, while working as self-glorification, generally leads to the devaluation of other groups.

Staub argues that if there is a history of violence between two groups, this process of devaluation complements its evolution with the emergence of the *ideology of antagonism* to the extreme (Staub, 1999, p. 183). Staub explains the ideology of antagonism as "a perception of the other as an enemy and a group identity in which enmity to the other is an integral component" (Staub, 1999, p. 183). Murat Yıldırım's descriptions of the cultural environment in which his father's childhood passed give a vital clue to understanding the formation of Mahmut Yıldırım's antagonistic ideology.

The Solhan district of Bingöl province, where Mahmut Yıldırım was born, had been under Russian occupation between 1914 and 1916 during WWI. Murat Yıldırım emphasizes in the book about his father that the stories of resistance against the Russian invasion that his father had listened to in childhood became the most decisive element in the formation of his nationalism. The son quotes his father's own words to show that his father's transformation into Yeşil was shaped by his childhood:

> I was a little boy. I had not started school yet. I remember that I had this feeling: When I was playing on the street, I was thinking, "I wish the Russians would come so that I could kill one of them." Then, when I started school, I became interested in history, and my Russian hatred consolidated. I can't say that my nationalist idealism began on a specific date. *I was already born that way* [*emphasis is mine, Ed.*]. Then when the right-left fight broke out in Turkey, I asked what this left was, and they said

> it was Russian. My hatred kept growing [*against both Russians and leftist groups, Ed.*].[63]

This quote efficiently explains how cultural preconditions were decisive in the consolidation of Mahmut Yıldırım's nationalist feelings and their evolution into an ideology of antagonism despite his Kurdish origins. As he points out, he did not become a Turkish nationalist on a specific date; he was "born" so. The stories of the Russian occupation of the village where he was born, in fact, date back to the years before his birth. However, those patriotic stories had become a part of the village culture and were being transferred to the coming generations.

His initial nationalist feelings also influenced Yıldırım's socialization and positioning with nationalist circles like the Grey Wolves. This socialization eventually turned into taking a position against leftist groups and then Kurds upon the foundation of the PKK. Murat Yıldırım underlines that this activism was entirely realized by Mahmut Yıldırım's own will. Accordingly, no one had ever requested or ordered Mahmut Yıldırım to engage in a struggle against leftist groups or the PKK; he was voluntarily involved in those struggles due to his ultra-nationalist feelings (Yıldırım & Emeç, 2009, p. 38). According to Murat Yıldırım, his father's ultra-nationalist love for the land was above all other values in the world, even above his family and children:

> When my dad stayed home at night, he would send my little brother or me to start the car in the mornings. Of course, I couldn't have known what that meant in those days. I later realized that my father thought a bomb might have been put in his car, and if any life had to be given for the state, he wanted it to be his son. If the bomb exploded and his kid died instead of him, in his thoughts, this failure would have two consequences: the trap that was established for the indispensable warrior for the state [*i.e., Mahmut*

[63] "Küçük bir çocuktum, daha okula filan başlamamıştım. Sokakta oynarken aklıma gelirdi, ah şu Ruslar gelse de bir tanesini haklasam. Böyle bir duygu vardı bende. Sonra okula başladım, tarihe merakım oldu, bende bir Rus kini oluştu. Yani ben belli bir tarihte ülkücü olan bir adam değilim. Doğarken öyle gelmişim işte... Ondan sonra sağ-sol kavgası çıktı. Bu sol nedir dedik, dediler bunlar Rus. Kinim gittikçe arttı" (Yıldırım & Emeç, 2009, p. 37).

> *Yıldırım*] would have failed, and the enemy who set up the trap would be demoralized because they failed and caused the death of a little kid.[64]

In many parts of the book, Murat Yıldırım stresses how his father was an *indispensable warrior* for the state as a person who was always ready to do anything for the sake of his country. Describing his father, he persistently uses the word *warrior* (also the name of the book) against claims showing his father as a hitman or a subcontracted killer. In his words, "Yeşil is a product and a symbol of an era" (Yıldırım & Emeç, 2009, p. 23). With these words, he claims that Yeşil was born out of necessity as the state could not achieve effective results in its fight against the PKK within the boundaries of conventional warfare techniques. However, Yeşil fought in an unconventional way, using the PKK's methods: he dressed like PKK militants, wandered in the mountains like them, and stayed in the caves that militants visited (Yıldırım & Emeç, 2009, pp. 98–99).

These unconventional warfare methods, as explained by Murat Yıldırım, not only reveal the state's incapacity in its fight against the PKK but also confirm the construction of contractual violence in the region between the state and civilians in a paramilitary manner. Accordingly, the state was actually subcontracting its monopoly on military authority to civilians like Mahmut Yıldırım. The questions here are: What were the limitations of the contractual violence between the state and Yeşil? Was this a simple recruitment relationship? Or was it tacit permission for Yeşil's own methods at the intersection of the professional self-interest of the state and nationalist personal self-interest of Yeşil? In the following section, I seek answers to these questions in the context of Mahmut Yıldırım's relationship with JİTEM.

5.3.4. On JİTEM

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[64] "Babam, eğer gece evde kalmışsa, sabah kalktığında arabaya binmeden önce beni veya kardeşimi arabayı çalıştırmak üzere dışarı gönderirdi. Ben o günlerde bunun ne anlama geldiğini tabi ki bilemezdim. Sonradan anladım ki, babam, arabasına bomba konulacağını düşünüyor ve eğer devlete bir can kurban verilecekse bunun oğlu olmasını istiyor. Çünkü düşmanın hedefindeki isim oğlu değil, kendisi. Böylece, hem devleti için vazgeçilmez olan bir savaşçıya kurulan tuzak boşa çıkmış olacak hem de düşman moral olarak kaybedecek" (Yıldırım & Emeç, 2009, p. 144).

Mahmut Yıldırım appeared in an official report for the first time in 1991 with the code name *Sakallı*. As stated in his biography, Yıldırım had worked for the Tunceli Gendarmerie Regional Command from 1989 to 1991. Upon many complaints from local residents of Tunceli stating that a person called Sakallı had tortured them, the Parliamentary Human Rights Investigation Commission authorized a sub-commission to investigate the allegations in the region on 14 and 15 April 1991.

The sub-commission submitted its report to the Head of the Commission in June 1991, where Mahmut Yıldırım was mentioned only with his code name, Sakallı, as an informant working for the local gendarmerie units. The report also stated that Sakallı was dismissed from his position by the provincial gendarmerie command on 25 April 1991, following increased complaints about his illegal acts (Türkiye Büyük Millet Meclisi, 1992, p. 26).

The reach of the complaints up to the TBMM gave a significant clue about the impunity cover of Yıldırım in the region. Indeed, after complaints were brought to the TBMM and an investigation committee was formed, the Tunceli Gendarmerie Command declared its decision to terminate Sakallı's duty. However, the local complaints had come long before. Allegations of torture require a serious legal investigation according to Turkish criminal law, but the only punishment that Yıldırım received was the termination of his job while his real identity was kept confidential. All these results reinforce the idea that Yıldırım was acting with the guarantee of impunity in the region.

Arif Doğan's accounts indicate that Yıldırım's relationship with JİTEM started after his expulsion from duty in Tunceli. Doğan contended that he was the person who recruited Mahmut Yıldırım to JİTEM. According to Doğan's book, after leaving Tunceli, Yıldırım continued his intelligence activities in Diyarbakır for the Parliament's intelligence branch (Arif Doğan, 2011, p. 111). In fact, there is no such intelligence unit in the organizational scheme of the TBMM (Türkiye Büyük Millet Meclisi, n.d.). However, working for the TBMM meant for Doğan that Yıldırım was working under either the Chairperson of the Parliament or the Prime Minister (Arif Doğan, 2011, p. 112). This allegation makes Yıldırım's immunity in the state more ironic, as it would seem that the same Parliament investigating Yıldırım for the Tunceli complaints also hired him for intelligence activities. Another claim of Doğan about Yıldırım is that most of the people with whom Yıldırım was in contact in the region were American agents (Arif Doğan, 2011, pp. 112–113). Thus, Doğan explains why he recruited Yıldırım for JİTEM; he thought he had better work with such a strong

man rather than compete with him for intelligence on the same region (Arif Doğan, 2011, pp. 112–113).

After starting to work for JİTEM, Mahmut Yıldırım became closer to Cem Ersever. Murat Yıldırım also confirms that Ersever was the commander he saw his father with the most (Yıldırım & Emeç, 2009, p. 169). As I mentioned previously in the section on Cem Ersever, he also stated that the relationship between Yeşil and Ersever deteriorated after Ersever fell in love with the repentant Neval Boz (Yıldırım & Emeç, 2009, p. 169). Murat Yıldırım mentions that this relationship drastically changed Cem Ersever's perspective on the fight against terrorism:

> [*Cem Ersever*] changed because of a female repentant. He fell in love with her. He was out of sight because of his love. This love also changed his discourse. I remember he used to say, "Let's strike, break, cut, hang them." After falling in love, though, he started to see things differently. For example, he started to say, "This problem is not solved with guns," like repeating the statements of Kurdish DTP [Democratic Society Party, *Demokratik Toplum Partisi*] politicians and the PKK.[65]

Murat Yıldırım explains the disengagement between Yeşil and Ersever with the unalterable nationalist stance of Yıldırım and Ersever's changed perspective against the Kurdish issue. According to the son, his father was very angry with Ersever because of his changed thoughts and discourses, therefore deciding to keep a distance from Ersever. However, according to Ağaşe, the main reason for their tension was the rivalry between them to gain more power in the region:

> The fact that Cem Ersever was a military official and Mahmut Yıldırım was a subcontractor would create a disadvantage for Ersever while subcontracting status

[65] "Bir itirafçı kadın yüzünden değişti. Aşık oldu. Gözü önünü görmüyordu. Söylemleri de değişti. Ben hatırlıyorum, "Vuralım, kıralım, keselim, asalım" derdi. Aşık olduktan sonra her şeye başka gözle bakmaya başladı. "Bu iş silahla olmaz" falan diyordu. Bugün DTP'lilerin, PKK'lıların kullandığı söylemleri dile getiriyordu" (Yıldırım & Emeç, 2009, p. 174).

> would bring great advantages to Mahmut Yıldırım. In the following process, while Mahmut Yıldırım became the preferred man, Ersever became the persona non grata.[66]

Mahmut Yıldırım was enjoying all the opportunities provided to JİTEM's civilian members in the OHAL region. He was a resident in the lodgings of the OHAL Governorate in Diyarbakır and used an identity card in the name of a state officer. Furthermore, his comradeship with Ersever enabled him to become the second most important man in the region despite his civilian status. Thus, as Ağaşe argues, the death of Ersever led Yıldırım to a stronger position because he knew all the deficits and developments in the organization just as well as Ersever had (Ağaşe, 2009, p. 70).

Mahmut Yıldırım's close relationships with military officials were also highlighted in both Susurluk reports prepared by the TBMM and the Prime Ministry Inspection Board, and by the MİT report sent to the Inspection Board. The common point that all these reports state about Mahmut Yıldırım is that Yeşil gained significant personal power by using his relationships with military officials in the region.

The Susurluk Report of the Prime Ministry Inspection Board emphasizes that arbitrary activities of military officials and civilians working in JİTEM became remarkable over time. The report introduces Mahmut Yıldırım as the best-known name of the civil wing of JİTEM and Cem Ersever as that of the military wing (Savaş, 1998, p. 25).

The Inspection Board obtained detailed information about Mahmut Yıldırım due to the report it requested from the MİT. In the MİT report, Yıldırım's illegal activities were listed case by case as follows: summary killings, rape, extortion, ransom, and fraud (Savaş, 1998, pp. 28–33). The MİT also observed that Yıldırım attended a provincial security commission meeting in Muş on 5 May 1992, along with the provincial governor, chief of police, provincial gendarmerie commander, and the MİT's head of the Bingöl region. At this meeting, Yıldırım complained that he could not get any support from MİT units in Bingöl (Savaş, 1998, p. 29). What was Yıldırım's authority for attending

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[66] "Cem Ersever'in asker, Mahmut Yıldırım'ın ise taşeron olması ilerleyen süreç içerisinde Ersever'e dezavantaj oluştururken Mahmut Yıldırım'a da taşeronluk büyük avantajlar kazandıracaktı. İlerleyen süreçte Mahmut Yıldırım, yıldızı artan, aranan adam olurken, Ersever istenmeyen adam oluvermişti" (Ağaşe, 2009, p. 69).

such a crucial official meeting? There is no explanation in the MİT report to give a satisfactory answer to this question. However, Yıldırım's participation in this meeting and his ability to complain to state officials is evidence of how close he was with state authorities and how arbitrarily he acted in the region.

The MİT report includes the activities of Yıldırım between 1973 and 1995 and concludes that the MİT ceased all contact with Yıldırım on 30 November 1996. This cessation does not alter the reality that the contact between the MİT and Yıldırım had continued for 23 years, although the MİT was aware of Yıldırım's crime inventory. This reality again confirms how indispensable and untouchable Yıldırım was for the state.

In the TBMM's Susurluk Report, Yıldırım is described as a person who turned into a hitman after he started to work as an informant for JİTEM (Türkiye Büyük Millet Meclisi, 1997, pp. 220–229). Gendarmerie Noncommissioned Officer Hüseyin Oğuz, in his statement to the Parliamentary Investigation Commission on 18 February 1997, also emphasized Yıldırım's close relationship with military officials in the OHAL region. According to Oğuz, Mahmut Yıldırım gained significant status in JİTEM due to his comradeship with Cem Ersever, and then with Veli Küçük after Ersever's death (Türkiye Büyük Millet Meclisi, 1997, p. 229). Oğuz also associated the unsolved murders committed in western Turkey in 1994 with the relationship between Küçük and Yıldırım. He pointed out that after Veli Küçük was appointed in the west as Kocaeli Gendarmerie Commander, Mahmut Yıldırım followed him, and the unsolved murders committed in the west increased (Türkiye Büyük Millet Meclisi, 1997, p. 229).

Based on Hüseyin Oğuz's statements in the same report, I previously mentioned Yıldırım's role in drug trafficking between Yüksekova (Hakkari) and Van while discussing the organized crime activities of JİTEM in Chapter 3. Another statement in the report by the owner of a local bus company in Van, Senar Er, added new information about the organized crime repertoire of Yeşil. In his testimony on 13 January 1997, Er said that he knew Yıldırım from the Yüksekova district of Hakkari as JİTEM personnel who was constantly wandering with soldiers and using different names, like Yeşil, Mahmut Yıldırım, and Ahmet Demir. As Yüksekova was a crucial zone of conflict between the PKK and the TSK, Er remarked that Yıldırım was making financial gain by exploiting the security fears of the local people living there by demanding ransoms and racketeering in return for their own or their relatives' safety. Er also added that his father was kidnapped and his

company's buses were burned and shot because he refused to pay the tribute (Türkiye Büyük Millet Meclisi, 1997, p. 131).

In other sections of the report regarding Mahmut Yıldırım, Yıldırım is portrayed as a person using state power to his advantage. Yıldırım was also mentioned in the famous conclusion of the report, where the Commission problematized JİTEM's existence but found its activities real:

> […] the use of the State in the activities of Mahmut Yıldırım, codenamed *Yeşil*, and the recklessness of some State officials in providing protection and interest for him revealed the weakness in the Country's governance [*Ülke yönetimi*].[67]

Choosing the word Country (*Ülke*) for *governance* instead of State (*Devlet*) in the report reflects a deliberate determination of the Commission, making a distinction between the State and Government. Thus, the sanctity of the state manifests itself in this report, too, as detailed in Chapter 2. Accordingly, while the state continues to exist as a social organism, some viruses, like Mahmut Yıldırım in my example, have infiltrated this organism. Indeed, all official reports and discourses on the Susurluk Scandal have the same strategy of keeping the state removed from dark groups like JİTEM. According to these reports, shadowy groups like JİTEM and subcontractors like Mahmut Yıldırım are viruses that need to be exposed and destroyed.

As mentioned in the introduction of this thesis, Philip Abrams claims that "the state itself is the source of the state's ability to defy our efforts to unmask it" (Abrams, 1988, p. 63). In this assertion, the state, in fact, appears as a "triumph of concealment" (Abrams, 1988, p. 77). The fact that Mahmut Yıldırım was uncapturable despite all the accusations against him also confirms Abrams's assertion for the Turkish case. It is obvious that all the reports had the intention of clarifying the Susurluk Scandal in all its aspects. Neither the TBMM nor the Prime Ministry Inspectorate Board nor the MİT hesitated to discuss the state's cooperation with nationalist civilians such as Mahmut

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[67] "[...] Yeşil kod adlı Mahmut Yıldırım'ın faaliyetlerinde devletin kullanılması ve bazı devlet yetkililerinin koruma ve çıkar sağlamadaki pervasızlıkları Ülke yönetimindeki zaafiyeti ortaya koymuştur" (Türkiye Büyük Millet Meclisi, 1997, p. 364).

Yıldırım. However, as Yıldırım's own words will show below, there was still a concealment agreement between the state and Yıldırım, benefiting both sides.

5.3.5. Yıldırım's Verbal Performance

As mentioned earlier, the issue of the *Yeni Ufuk* newspaper dated 16 July 1997 was the only place where I encountered Mahmut Yıldırım's own words. The crucial question here is: Why did Yeşil express himself specifically on this date?

As previously mentioned, the MİT stated in its report for the Susurluk investigation that it had no contact with Mahmut Yıldırım since 30 November 1996. Another point of importance for "November 1996" was the Susurluk crash, which happened on 3 November 1996. Whether or not Yıldırım had a role in this crash has been a frequently debated topic since the accident. Indeed, Mahmut Yıldırım's first and last interview – at the time of writing this thesis – in a newspaper emerged as a response to the claims about him following the Susurluk Scandal.

The question asked in this short half-page interview in *Yeni Ufuk* was important: Why did Yeşil not show up and tell everything he knew? Yeşil's answer to this question was his decision to prioritize his security concerns. He stated that he had no reservations about showing up, as long as the safety of his children was guaranteed. He added: "Whatever I did, I did it with the knowledge of the state" (Yeni Ufuk, 1997, p. 5). His "state" emphasis again appeared in response to the question of the interviewer about whether Yıldırım thought of testifying before the court: "I risked my life to fight those who fight against the state. Some people may think that what I did was wrong, but I think it was right" (Yeni Ufuk, 1997, p. 5). With this answer, Yıldırım explicitly expressed that he never questioned the legality of his past activities.

Although Yıldırım implied that there had been times when he acted independently on his own, he emphasized in many parts of the interview that he had mostly worked under state command. In the interview, Yıldırım also mentioned the contention between the police and the gendarmerie forces of the state. Defining himself as a scapegoat, he accused the police organization of targeting him and JİTEM for all the wrongdoings in the country. Considering the rivalry between police and gendarmerie forces, the interviewer asked: "Are you currently protected by the MİT?" "I am not currently protected by anyone but myself," Yıldırım replied (Yeni Ufuk, 1997, p. 5). As emphasized

in the interview, Yıldırım had done everything in the name of the state and therefore had many state secrets. In such a critical situation, one particular question stands out: How did Yıldırım maintain his own security without any state protection?

Lawyer Sinan Yerlikaya answers this question based on his own encounter with Mahmut Yıldırım. Sinan Yerlikaya was a lawyer in Tunceli while Yıldırım was also working there. Yerlikaya was also the person who provided a police sketch of Yıldırım to the press in 1997 within the scope of the Susurluk debate. In an interview given in 2006, Yerlikaya stated that he knew Yıldırım from the Tunceli years. Noting that he was aware of Yıldırım due to the torture complaints coming from local people, he claimed that Yıldırım had state-given impunity in the region (Düzel, 2006). The dismissal of Yıldırım from his job after the parliamentary commission investigation without any judicial inquiry strengthens the feasibility of this idea.

Yerlikaya added that he had been threatened by Yıldırım personally because he criticized Yıldrım's torture practices against Tunceli locals. He also contended that his next contact with Yıldırım happened in February 1997. After the Susurluk crash, the press started to discuss the name Yeşil frequently. To contribute to this debate, Yerlikaya drew the sketch of Yeşil for the press in February 1997. Angered by Yerlikaya's action, Yıldırım called him on the phone and started speaking with obscenities, insults, and threats. Yerlikaya stated that he tried to persuade Yıldırım to show up and explain everything he knew; otherwise, he would have been killed, because he knew a lot. Yıldırım's reaction to this effort at persuasion provided a crucial clue to understand how he maintained his own security:

> Nobody can touch me. I took my precautions. I recorded all my works on tapes, which have all the knowledge about who ordered me for which work. I gave these tapes to the relevant places. *I'm killing people for the sake of my state* [*emphasize is mine, Ed.*]. If anything happens to me, all the tapes and relationships will be revealed.[68]

[68] "Kimse bana dokunamaz. Ben tedbirimi aldım. Yaptığım bütün işleri kasetlere aldım. Kim bana emir vermiş, kim bana ne demiş, hepsini, yaptığım her şeyi kasetlere anlattım. Adam öldürüyorsam, devletim için yapıyorum. Bu kasetleri ilgili yerlere verdim. Eğer bana bir şey olursa kasetler ve ilişkiler ortaya çıkacak" (Düzel, 2006).

Yıldırım's claims in this quote include an explicit acknowledgment of his state-sponsored crimes. His nationalist motivation of being ready to do anything for his state was even more prominent in the book by Ağaşe.

Ağaşe published his research on Cem Ersever and Mahmut Yıldırım in 2009. The most interesting part of the book is the author's encounter with Mahmut Yıldırım. To deepen his research on Mahmut Yıldırım, the author traveled to Elazığ, where Yıldırım's family was living. Ağaşe states in his book that he was taken from his hotel by three people overnight and brought to somewhere away from the city, where he was warned and threatened by Mahmut Yıldırım himself:

> Look, young man, my friends told me everything about your reports and relations as a journalist. Don't talk now, and just listen to me! Don't stick your nose into everything! There are some things that are unanswered and unresolved. I'm the man you're looking for. Is it your business to stir up this hornet's nest? […] We are fighting here at the expense of our lives to make you comfortable, sitting in your seat. Everything was done under the control of the state. You've already written about JİTEM and published some documents. What happened? Nothing. Don't you learn from that? Now you are doing artificial heroism. It was also the fault of Cem [*Ersever*]. He didn't fit the system and he went his own way. Everybody must know their place, or we let them know.[69]

In this quote, underlining his nationalist motives once again, Yıldırım makes a crucial implication regarding the murder of Ersever. As one of the prime suspects in the Ersever Murder, Yıldırım implicitly considers Ersever's changed views on the fight against terrorism and his information sharing with the press as *artificial heroism*. Yıldırım also threatens Ağaşe with the accusation of the

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[69] "Bak delikanlı, arkadaşlar her şeyi anlattı. Zaten yaptığın haberler, ilişkilerin ve gazeteciliğinle ilgili her şeyden haberim var. Şimdi sen hiç konuşma ve beni dinle. Burnunuzu her şeye sokmayın. Bazı şeyler vardır cevapsız, çözümsüzdür... Aradığın adam benim. Sana mı düştü arı kovanına çomak sokmak! [...] Siz orada koltuklarınızda rahat oturun diye, insanlar rahat etsin diye bizler burada canımız pahasına vatanın bekçiliğini yapıyor, mücadele veriyoruz. Yapılan her şey devletin ve vatanın kontrolündedir. Sen JİTEM'i yazdın, çizdin, belge melge yayınladın ne oldu hiçbir şey. Bunlardan ders çıkarmıyor, suni kahramanlığa soyunuyorsunuz. Cem'in yanlışı da buydu, sisteme uymadı, kafasının dikine gitti. Herkes haddini bilsin, bilmeyene bildirirler" (Ağaşe, 2009, p. 235).

same *artificial heroism*. From his nationalist viewpoint, *real heroism* is what he and people like him did for the state at the expense of their lives. Yıldırım also menacingly expresses in this quote that he is willing to bring those who challenge this true heroism into line.

5.3. Discussion

Rather than the questioning of the organization's existence, the main focus of this chapter was the questioning of the relationship between military staff and nationalist civilians under JİTEM. To explore this relationship, I drew on the theoretical approaches of James Waller (2002) and Michael Mann (2005) on *rational self-interest* and George Browder (1996) on *ego-organizational links*. All underline that there is always a possibility of establishing specific and voluntary relationships between certain individuals with particular motives and certain organizations serving the individuals' main motives. These motives may be diversified by socio-economic, religious, or ideological conjunctures or tendencies. Among them was the nationalist ideological commitment that stood out to explain the cooperation between JİTEM's nationalist military officials and patriot civilians as long as their *professional* and *personal self-interests* coincided.

In establishing this cooperation, ultra-nationalist reflections of extreme patriotism functioned as moral imperatives overshadowing the rational responsibility of the individuals behind JİTEM's extra-judicial activities. As the accounts of Cem Ersever showed, it was his nationalist ideology that motivated him to go beyond his legal professional limitations. As the accounts of Mahmut Yıldırım confirmed, it was again the same ideological commitment that inspired him to use all state opportunities to legitimate all kinds of unlawful acts for saving the country from terror.

Compared to Chapters 4 and 6, this was the most difficult discourse analysis chapter because of Ersever's unsolved murder in 1993 and the inaccessibility of Yıldırım since 1997. Although this has led to many speculations about their verbal performances, it was still important for this chapter to explore why they made certain explanations regarding their past activities. The analysis in this chapter showed that resentment and disappointment against the state lay in the background of the accounts of these two people with ultra-nationalist proclivities. On the one hand, Ersever made critical statements because he was disturbed by the Southeast policy of the state in general. On the other hand, Yıldırım gave the only newspaper interview of his life to respond to the allegations made about him after the Susurluk crash.

This chapter has not only provided information about the army's relationship with nationalist civilians but also its relationship with other civilians. It was Cem Ersever who first explained the relationship between military officials and PKK defectors. Ersever admitted that repentants were not formally part of the military but were recruited by himself as allies. Nevertheless, Ersever also pursued the same strategy as Koman and Doğan to put the blame for the illegal activities of JİTEM onto others. The "others" more explicitly appeared as the repentants in Ersever's accounts. However, contrary to Doğan and Koman's statements, he did not hide the collaboration between state officials and repentants in illegal activities. According to him, the civilian wing of JİTEM had particularly engaged in arbitrary activities in their own interests over time because of the state-granted power they obtained in the OHAL region. Thus, looking at the narratives of these civilian actors is important in understanding the JİTEM debate. For this reason, the next chapter will spotlight the verbal performances of a village guard and a repentant to expose JİTEM from other perspectives of power.

6. From Plausible Deniability to Confessional Plausibility: Remorseful Accounts

6.1. Introduction

This chapter takes the issue beyond denial and admission discussions on the existence and activities of JİTEM. The purpose of this chapter is to examine the confessions of two individuals who claimed to work for JİTEM in the past. The actors of this last of the agency-centered chapters are locals of northern Kurdistan with Kurdish ethnic origins – a village guard (Bedran Akdağ) and a former PKK rebel turned JİTEM perpetrator (Abdülkadir Aygan). The most important feature that distinguishes these two actors from the others I discussed in Chapters 4 and 5 is their liminal position between the state and the PKK. While other actors voluntarily associated with JİTEM with a sense of duty and nationalist motives, Akdağ and Aygan highlighted that they had no other choice than participating in JİTEM because of their precarious situations, as will be detailed in the following parts of this chapter.

To ease their precarious situations, both decided to benefit from state laws. While Akdağ utilized the Temporary Village Guard Law to prove that he was a loyal citizen of the state in the fight against the PKK, Aygan benefited from the Repentance Law to strengthen his position against the PKK because he had become the target of the organization for fleeing it. What makes these two actors significant for my thesis is that they both came out with confessional accounts against the state, disclosing the functioning of JİTEM under state control.

As the lowest-level members of JİTEM compared to the military officials and devoted nationalist actors of Chapters 4 and 5, the question of when they started talking is of great importance for my research to analyze their verbal performances. Abdülkadir Aygan, on the one hand, began to speak after taking refuge in Sweden in 2003. Bedran Akdağ, on the other hand, conveyed what he knew in the book he published in 2012 following the Ergenekon trials. Their confessional accounts not only challenged the official discourse trying to blur JİTEM's relationship with the state but also challenged the discourse regarding the abolition of the "temporarily established" JİTEM in 1990. Accordingly, both Akdağ and Aygan claimed and published documents showing that JİTEM continued its activities after 1990, contrary to the previous abolition accounts of Doğan and Ersever.

Nevertheless, their accounts were more of regret statements, reflecting a *gray zone* where their self-representations changed from perpetrator to victim position (Levi, 2017, pp. 25–56; Yıldız, 2019a, p. 94). The psychology scholar Albert Bandura explains shifting roles with self-exonerative purposes through which individuals tend to hide their harmful conduct by prioritizing the effects of compelling circumstances rather than their personal decisions (Bandura, 1999, p. 203).

The same strategy appears in the accounts of Akdağ and Aygan. As will be detailed below, both highlight an obligation due to requirements of duty or compulsion of circumstances rather than bearing their own accountabilities for JİTEM's activities. The following two sections will seek an answer to the following questions: How do they construct their truth by looking at their troubled past? How do they position themselves between their present confessing-selves and their past perpetrator-selves?

6.2. Bedran Akdağ – Village Guard

Image 6.1: Bedran Akdağ (1974-…) (Haber Name, 2012)

6.2.1. A Short Biography

Bedran Akdağ was born in Mardin on 15 June 1974. He finished primary school in Mardin in 1985 and middle school in Şanlıurfa in 1988. After graduating from high school in Mardin in 1991, he did not continue to pursue education because of his father's refusal. According to his own report, his father did not allow him to study because of the escalating political right-left tensions in universities during the 1990s (Akdağ, 2012, p. 8). In 1992, after having seen his name on the PKK's

death-list, he began to work as a Voluntary Village Guard. Due to financial problems, he chose to become a paid Temporary Village Guard (TVG) in 1994. Together with this duty, he also worked as an informant for JİTEM between 1997 and 1999. He was a founding member of the Temporary Village Guards and Martyr Families Solidarity Association in Mardin in 2007. Between 2008 and 2010, he was also the president of the Derik branch of that association in Mardin. In 2008, he reported a criminal, who had been wanted for smuggling activities for ten years, to the Üçyol Gendarmerie Station Command, where he was also affiliated as a TVG. After this incident, Akdağ's life began to change negatively. Although the command did not take any action on the report, Akdağ was dismissed from his position with the Martyr Families Solidarity Association in Derik. After being mistreated by military officials, he resigned from his TVG position in 2010. In the same year, he confessed what he knew about JİTEM during the Ergenekon investigation. After his confession, Akdağ reported that he received death threats; as a result, he left Mardin. In 2012, he published a book based on his 18-year village guard experience with the title *Dağın Ardındaki Gerçekler: PKK, Korucular, JİTEM, İtirafçılar ve "Diğerleri"* ("The Truth Behind the Mountain: The PKK, Village Guards, JİTEM, Repentants, and 'Others'"). Akdağ's book contains severe criticisms of the state's Southeast policy and important revelations about JİTEM.

6.2.2. Akdağ's Discursive Formation

At the time of writing this thesis, Bedran Akdağ is the only village guard to have written a book in Turkey. As mentioned earlier, some academic and civil society research has been conducted on the Village Guard System and village guards, but Akdağ's book provides a thorough evaluation of state policy in northern Kurdistan from a village guard's point of view for the first time. Therefore, in this section, I will scrutinize Akdağ's discursive formation through his book.

At the beginning of his book, Akdağ clarifies why he wrote it. He explains that he wanted to lift the veil of secrecy over shadowy groups inside the state as well as the financial and psychological harm these groups caused to the people of the East and Southeast (Akdağ, 2012, p. 8). The critical point with regard to Akdağ's confessions is the starting point. Why did Akdağ speak in 2010 during the Ergenekon trials? In other words, why did he not speak during the events in the long 1990s? He answers these questions in his book:

> I want to share a small note for those who are wondering why I am speaking now, not on the days of the events. Leaving aside talking about the events in those days, asking for the whereabouts of blatantly disappeared people was not even possible. We [*he is speaking for the people of the Southeast in general, Ed.*] could only watch what was happening. We never had the right to speak. If the necessary sensitivity was shown outside the region about what was going on in the region, what we are experiencing today might not have happened, and the people of the Southeast might have had peace with the state.[70]

In this quote, Akdağ critically addresses the state policy in the 1990s in northern Kurdistan and the Turkish public's general indifference about what happened in the OHAL region. Indeed, the state began to profoundly discuss human rights violations in the region for the first time after the Susurluk Scandal even though the main focus of the post-Susurluk reports was unearthing the deep state network between the state and criminal actors rather than human rights violations themselves. The OHAL administration and its decrees were also effective in preventing the Turkish public from being aware of the atrocities in the region. For instance, Emergency Decrees Nos. 424 and 425 issued on 10 May 1990 restricted reporting on the OHAL region on the pretext of the deterioration of public order and public agitation (Üskül, 2003).

It was during the Ergenekon investigation in 2007 that, for the first time, the role of military officials in human rights violations during the 1990s began to be officially discussed in courtrooms, even though the main focus of the investigation was again not the human rights violations themselves, as seen in the post-Susurluk process. The primary focus of the Ergenekon investigation was to reveal the clandestine network within the state that was planning to topple the AKP government. However, as the Ergenekon investigation opened Pandora's box for military officials, Bedran Akdağ also took courage from this process to defy his long-standing silence and made statements against some officials who had served in the OHAL region.

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[70] "Bunları neden olayların yaşandığı günlerde değil de şimdi anlattığımı merak edenler için küçük bir not; O günlerde değil bunları dillendirmek, göz göre göre kaybedilen insanların peşinden gitmek bile mümkün değildi. Sadece yaşananları izleyebilirdik. Asla söz hakkımız yoktu. Bölgede yaşananlar konusunda bölgenin dışında gerekli hassasiyet gösterilmiş olsaydı bugün yaşadıklarımız yaşanmaz, bölge insanının devletle barışı sağlanabilirdi" (Akdağ, 2012, pp. 57–58).

In his statements, Akdağ criticizes both the PKK and the state for their functioning in the Southeast. His analysis of state policies is much more extensive because he officially served the state in the TVG system. Since his accounts mostly focus on the OHAL rule, the TVG system, and JİTEM, the following sections provide an analysis of his accounts on these three issues.

6.2.3. On OHAL Rule

Akdağ's accounts on the emergency rule include severe criticisms, largely corroborating Judith Butler's argument that state officials become petty sovereigns in states of exception where the main law is suspended, as I discussed in Chapter 3 (Butler, 2006, p. 56). Probably unaware of Butler's analysis, Akdağ uses almost the same words – "petty kings" (*küçük krallar*) – as Butler does when describing state officials' arbitrary operations in the region (Akdağ, 2012, p. 17). He explicitly acknowledges that the OHAL decrees, which were intentionally enacted for an effective and rapid fight against terrorism, provided large authorities and the cover of impunity for officials in the region, thus facilitating their illegal activities. The result, according to him, was the emergence of gangs of interest within the state carrying out arms, drugs, and human trafficking together with unsolved murders and forced village evacuations (Akdağ, 2012, p. 17).

Akdağ objects to the heroism discourse frequently used by those who served in the OHAL region to cover their illegal activities, as previously seen in Mahmut Yıldırım's verbal performance. According to Akdağ, state officials were hiding their hypocrisy behind the heroism discourse like a mask:

> It should be known that most of the famous heroes were actually working in their own interests rather than the interests of society, pursuing unearned income and doing everything to improve their personal power in the region. It is evident that heroism was just a mask in many events in the region, and there were many illegalities hidden behind this mask.[71]

[71] "Kahraman bilinen çoğu kişinin, esasında toplumun çıkarlarından çok kendi çıkarları doğrultusunda çalıştıkları, rant peşinde koştukları ve yaptıkları her şeyi bölgedeki güçlerini geliştirme adına yaptıkları bilinmelidir. Bölgede

The real reason behind state officials' illegal operation in the region for Bedran Akdağ was the state's insincerity in its fight against terrorism. According to him, the state policy against the PKK has not yielded results because of the interest groups within the state:

> If the state had taken precautionary measures to combat real terrorism, this many villages would not have been evacuated, there would have been no unsolved murders, and 35,000 citizens would not have died.[72]

According to him, the cause of *real* terror in the region was the interest groups within the state who did not want the destruction of the PKK because of their personal gains in the region. Thus, by questioning the sincerity of the state policy, Akdağ was actually expressing his disappointment in the state.

As a Kurd living in the Southeast, Akdağ's life story shows that he was never close to the PKK, and he criticized it at every opportunity. He even chose to become an unpaid voluntary village guard before switching to paid TVG status because of financial difficulties. Therefore, criticism of the Village Guard System has a primary place in Akdağ's accounts in order to both express his disappointment in the state and describe the interest groups within the state.

6.2.4. On the Village Guard System

Village guards are one of the groups that established "little kingdoms" in the OHAL region. As previously explained in Chapter 3, the state utilized two methods to push ordinary villagers to become village guards.

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yaşanan birçok olayda, kahramanlığın sadece bir maske olduğu, altında ise birçok hukuksuzluğun ve yasadışılığın olduğu açıktır" (Akdağ, 2012, p. 12).

[72] "Oysa ki devlet samimiyetle önlem alarak, gerçek terörle mücadele yapsa ve kardeşlik kültürü inşa etmeye çalışsaydı, bunca köy boşaltılmayacak, faili meçhul cinayetler olmayacak ve 35 bin vatandaş ölmeyecekti" (Akdağ, 2012, pp. 20–21).

In the first case, the state directly negotiated with pro-state tribal leaders to include all male members of the tribe into the TVG system. As I showed with the example of the Jirki Tribe in Chapter 3, this negotiation could even be based on an impunity guarantee: All members of the Jirki Tribe who had been involved in ordinary crimes were pardoned in return for joining the TVG system (Ekinci, 2011, p. 20). In the second case, the state forced ordinary Kurdish peasants to become village guards with the threat of displacing them from their villages. In both cases, the Village Guard System functioned as a method of distinguishing loyal citizens from disloyal ones. As a result, the state created a semi-official paramilitary organization consisting of "loyal" citizens equipped with the state's weapons and financial support – just as it did with the formation of the Hamidiye Regiments in the 1890s.

In his book, Akdağ explains the effect of the TVG system on villagers: "If you want to see what you will face when you give the state's weapon, financial support, and authority to a peasant, you should look at the village guard system in the region."[73] According to Akdağ, ordinary peasants who turned into village guards pursued their own interests over time rather than fighting terrorism. I have already underlined the state-supported local autonomy and the criminal proclivity of TVGs in Chapter 3; Akdağ supports this view with some statistical analysis:

> Village guards, who have been operating officially in the region since 26 March 1985, have been involved in various crimes such as rape, village raids, murder, drug trafficking, and banditry for 26 years. They killed 62 people in their attacks against civilians in the past two years. According to a report of the Ministry of Internal Affairs, 5,000 village guards committed crimes in the 21 years between 1985 and 2006. [...] State reports reveal that village guards' offenses especially increased when clashes with the PKK decreased.[74]

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[73] "Bir köylünün eline devletin silahını, gücünü ve yetkisini verdiğinizde neyle karşı karşıya kalacağınızı görmek istiyorsanız, bölgedeki koruculuk sistemine bakmalısınız" (Akdağ, 2012, p. 60).

[74] "Bölgede 26 Mart 1985 tarihinden bu yana resmi olarak faaliyet yürüten korucular, 26 yılda birçok tecavüz, köy baskını, adam öldürme, uyuşturucu ticareti, çetecilik gibi olaylara karıştı. Korucular son iki yılda sivillere karşı gerçekleştirdikleri saldırılarda ise 62 kişiyi öldürdü. İçişleri Bakanlığı'nın raporuna göre, 1985-2006 yılları arası

With these data, Akdağ emphasizes the arbitrary power of TVGs. He also contends that some TVGs arbitrarily detained and released their adversaries in exchange for money and that they committed revenge killings while alleging the murders to have been committed by the PKK (Akdağ, 2012, p. 58). Akdağ also notes that TVGs were mentioned as "the group most involved in dirty work" in the report by the Parliamentary Commission for Inquiry into Unsolved Political Murders in 1995 (Akdağ, 2012, p. 62). The same report also stated that most of the arms and drug trafficking in the region was under the control of TVGs (Türkiye Büyük Millet Meclisi, 1995, p. 45). The question here is: How wide were the limits of TVGs' powers in committing these crimes? Akdağ's answer to this question shows to what extent TVGs enjoyed impunity. He confirms that many judicial investigations were initiated against TVGs, but most of these inquiries have not resulted in legal penalties (Akdağ, 2012, pp. 62–63).

The abovementioned state support and impunity indicate that TVGs had already become powers in their own rights in the OHAL region. Some of them also either cooperated with JİTEM or were included in the organization under various pressures by JİTEM officers. The overlap between TVGs and JİTEM's inventories of crimes also strengthens the possibility of collaboration between these two paramilitary groups. What made village guards valuable for JİTEM was, in fact, their insider status. Like repentants, they knew the region very well and had already established the local networks required for organized crime activities.

As such, the relationship between JİTEM and TVGs was established in two ways. In the first case, the guards voluntarily joined JİTEM because their self-interests overlapped with those of the organization. In the second case, the military officials in JİTEM used their hierarchical superiority over TVGs to lure them into JİTEM's illegal activities. As will be revealed below, the latter situation explains the position of Bedran Akdağ.

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geçen 21 yılda 5 bin korucu suç işledi. […] Raporlar özellikle PKK ile çatışmaların kesildiği dönemlerde korucuların işledikleri suçların artışa geçtiğini ortaya koyuyor" (Akdağ, 2012, p. 62).

6.2.5. On JİTEM

Bedran Akdağ's accounts about JİTEM are based on his service and observations in Mardin province. Akdağ states that he worked for JİTEM as an informant from 1997 through 1999 (Akdağ, 2012, p. 124). He joined JİTEM because of the pressure from JİTEM's local teams in the region. In a TV program that he participated in for Gaziantep-based local *Kanal 5* (Channel 5) in 2012, Akdağ described JİTEM's oppressive method used to force TVGs to work for the organization. According to him, JİTEM military officials would threaten TVGs with accusing them of helping the PKK if they refused to work for the organization (Kanal 5, 2012). With this revelation, he was actually justifying his participation in JİTEM, implying that he had no choice other than working for it.

The most noteworthy part of Akdağ's account is the date range (1997–1999) that he gives for the period in which he worked for JİTEM. Both Arif Doğan and Cem Ersever stated that JİTEM was disbanded long before those dates. Akdağ contends:

> In the period when I worked there, JİTEM was serving as a separate unit within the Mardin Provincial Gendarmerie Command. Their powers were unlimited, and they were going in and out everywhere, with no legal limitations. The authority of a specialist sergeant working for JİTEM was possibly higher than that of a captain.[75]

He also adds:

> Between 1997 and 1999, when I worked as an informant for JİTEM, I heard the saying that the people working there were often repeating: "We work under the General Staff and take orders from there; our powers are unlimited."[76]

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[75] "Çalıştığım dönemlerde JİTEM, İl Jandarma Alayı içerisinde ayrı bir birim olarak görev yapıyorlardı. Yetkileri sınırsızdı ve sorgusuz sualsiz her tarafa girip çıkıyorlardı. JİTEM'de çalışan bir uzman çavuşun yetkisi bir yüzbaşının yetkisinden belki de daha üstündü" (Akdağ, 2012, p. 123).

[76] "JİTEM'de haber elemanı olarak çalıştığım 1997-1999 yıllarında, çalıştığım kişiler tarafından her defasında "Biz Genelkurmay'a bağlı olarak çalışır emir oradan alırız, yetkilerimiz sınırsızdır." denirdi" (Akdağ, 2012, p. 120).

In the same TV interview in 2012, he also confessed that he had a JİTEM identity card that enabled him to enter anywhere he wanted (Kanal 5, 2012). All of Akdağ's accounts contradict the previously discussed accounts in Chapters 4 and 5 that defined JİTEM as a separate organization outside the state. Contrary to this narrative, in the above quotation, Akdağ underlines the organization's direct relationship with the General Staff.

Bedran Akdağ also defines JİTEM in his book as an uncontrollable organization equipped with legal authority to conduct inquiries, trials, judgments, and executions on its own (Akdağ, 2012, p. 18). The *legal authority* mentioned by Akdağ here is actually the guarantee of impunity provided by the state's OHAL decrees in the region. According to Akdağ, this allowance led to the organization becoming the main responsible party for unsolved murders, summary executions, enforced disappearances, drug trafficking, and arms smuggling (Akdağ, 2012, p. 18).

He states that other military officials in the region were also aware of JİTEM's existence, but they were pretending not to see its activities. He reinforces this argument by sharing the story of how he stopped working for JİTEM: As a TVG, Akdağ was affiliated with a gendarmerie station in the Derik district of Mardin. In 1998, JİTEM commissioned him for a scouting mission in the Kızıltepe district of Mardin. When he returned to Derik as his main duty area, after having fulfilled his JİTEM assignment, he was warned by the Derik District Gendarmerie Commander that he must stop working for JİTEM (Akdağ, 2012, pp. 126–128). He highlights this story in his book to challenge the claim that the state was not aware of JİTEM.

In his book, he also makes crucial statements about Kızıltepe Gendarmerie Commander Hasan Atilla Uğur. Akdağ claims that Uğur was JİTEM's Kızıltepe operations team leader in the 1990s. His team was also known as *Bıçak Timi* (Dagger Team) in Kızıltepe:

> […] The Dagger Team was the nightmare of the people of Kızıltepe. The team is referred to as the "Dagger Team" because it suppressed and damaged people like a

> dagger. The task of this team was to oppress ordinary people rather than to fight terrorism.[77]

Akdağ asserts that Uğur's team consisted of TVGs and repentants. As an ordinary activity, this team was kidnapping people for ransom. If the money was not received, they would kill the captives and throw them into the water well in the village of Katarlı (Akdağ, 2012, pp. 72–75).

Interestingly, Hasan Atilla Uğur was tried in both the Ergenekon Trial (2008–2019) and the Kızıltepe JİTEM Trial (2015–2019), as I will detail in Chapter 7. However, despite serious allegations of eyewitnesses against Uğur and bodies taken out of the well in Katarlı, he was acquitted in both trials in 2019 (Perpetrator Not-Unknown, 2019b).

Akdağ points out that the Dagger Team was only one of the JİTEM teams operating in the region, adding that:

> The teams oppressed the people by using state power instead of maintaining their safety. The locals did not know what to do or who to trust. They were in great confusion about where to escape and whom to complain about, getting stuck between terror and illegal groups within the state.[78]

Akdağ's statements reflect his disappointment in state forces and his unsafe position in the OHAL region. For him, the OHAL decrees themselves paved the way for the formation of groups like JİTEM using the weapons and power of the state in their illegal activities. He had started the fight against the PKK as a voluntary village guard at the beginning, but he was forced to become involved in JİTEM. This situation led him to develop a distrust of state officials.

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[77] "Bıçak Timi, halkın korkulu rüyası olmuştur. Timin adı, halkı bıçak gibi kesmesinden ötürü "Bıçak timi" olarak anılmaktadır. Bıçak timinin görevi çoğunlukla terörle mücadele değil, halk ile mücadele idi" (Akdağ, 2012, p. 72).

[78] "Timler halkın asayiş ve düzenini sağlayacağına, genellikle devletin kendilerine vermiş olduğu yetkileri kullanarak, halkı baskı altına almışlardı. Halk artık ne yapacağını şaşırmıştı. Bir yandan terör, bir yandan devletin içindeki illegal yapılar, halk nereye kaçacağını kimi kime şikayet edeceğini şaşırmıştı" (Akdağ, 2012, p. 76).

He eventually decided to tell what he knew through a book, but after his book was published in 2012, his distrust turned into insecurity and anxiety about his and his family's safety. In the TV program in 2012, he claimed to receive threats, especially from military officials who had worked under Hasan Atilla Uğur during the 1990s (Kanal 5, 2012). He left his job as a TVG and Mardin, where he lived. However, he continued to talk about the past wrongdoings through both official and unofficial channels (through the Ergenekon and Kızıltepe JİTEM trials, TV channels, and YouTube channels).

What motivated him to make these explanations despite all the negative things that happened in his life? I will seek an answer to this question in the next section, where I evaluate Akdağ's verbal performance.

6.2.6. Akdağ's Verbal Performance

Akdağ's statements reveals that the main motive that drove him to speak out was his disappointment in state policy in the OHAL region. He puts the primary blame on the OHAL rule for the creation of shadowy groups like JİTEM. He even makes a vampire analogy for JİTEM, since the organization persecuted people for its own interests (Akdağ, 2012, p. 125). According to him, he was also the victim of these vampires. Although he had started to fight against the PKK as a voluntary village guard with good intentions, he was forced into involvement with JİTEM. He claims that his shame and disappointment had already begun during the years he worked for JİTEM: "I was ashamed of my humanity in those years. The glorious Turkish Army was left under suspicion because of the vampires in the region."[79]

He also tries to eliminate his feelings of disappointment and guilt by exonerating himself, as evident in the following quotation:

> As someone who has devoted his life to the fight against the PKK terrorist organization, I suffer because I have not followed the path of derailed organizations in the state. I did not deserve these sufferings because I did not make unlawful earnings;

[79] "O yıllarda insanlığımdan utanç duyuyordum. Anlı şanlı Türk Silahlı Kuvvetleri bölgedeki vampirler sayesinde zan altında bırakılmıştı" (Akdağ, 2012, p. 125).

> I did not act treacherously. In contrast, I always stood against those who were involved in these activities. Of course, I do not regret what I did, but are honesty, sincerity, and commitment [*to the state, Ed.*] a crime?[80]

Akdağ's verbal performance oscillates between disappointment and self-exoneration. All of the stories he told about his past with the TVG and JİTEM portray an innocent and loyal Kurdish man who committed himself to the struggle against the PKK alongside the state. According to this story, he was drawn into JİTEM by the provocation of JİTEM's official members against his own preferences. Thus, he found an opportunity to present himself as a victim of malicious officials in the state. This was also a way for him to turn his disappointment into another opportunity for self-exoneration, revealing the state officials' past wrongdoings by both testifying in the Ergenekon investigation and writing a confessional book. Undoubtedly, it was the Ergenekon investigation itself, in which military officials were prosecuted for their past wrongdoings, that created this window of opportunity for Akdağ. In this way, Akdağ, while not having the courage to speak in the past, became a confessing figure despite the threats he received.

In contrast to Akdağ's self-courageous story, the following section focuses on the more vulnerable story of a PKK defector turned JİTEM officer, caught between the PKK and the state.

6.3. Abdülkadir Aygan – *İtirafçı*

[80] "Hayatımı PKK terör örgütü ile mücadeleye adamış biri olarak devletin içindeki rayından çıkmış örgütlerin yollarından gitmediğim için bu acıları çekiyorum. Ben bunları hak etmedim, kanunsuz kazanç sağlamadım, hainlik yapmadım, her zaman yapanların karşısında durdum. Elbette yaptıklarımdan pişman değilim ama dürüstlük, samimiyet, inançlılık suç mudur?" (Akdağ, 2012, p. 159).

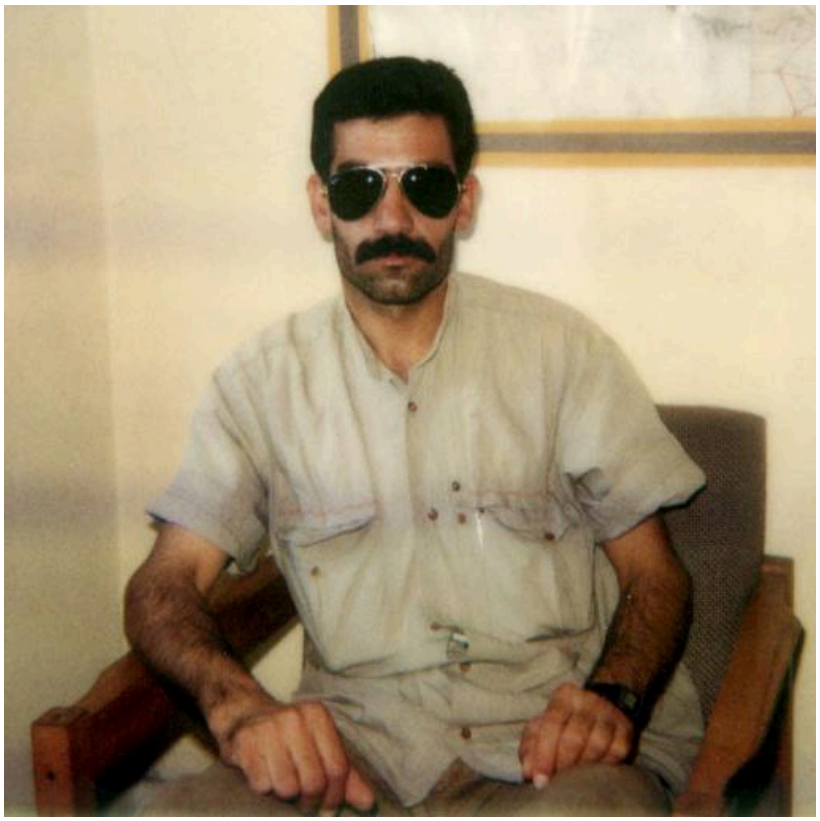

Image 6.2: Abdülkadir Aygan (1958-…) (Medya Faresi, 2009)

6.3.1. A Short Biography

Abdülkadir Aygan, who was born in Şanlıurfa in 1958, has also kinship with Öcalan (N. Çiçek, 2009b, p. 167). Aygan attended Adana Vocational High School in 1975 and became an accomplished athlete there; he joined the Mediterranean athleticism team and achieved first place awards in some races (N. Çiçek, 2009b, p. 167). He had left-leaning ideas in his youth and clashed with ultra-nationalists on the streets of Şanlıurfa. He was even wounded once by gunfire during one of these clashes and underwent surgery for it. Öcalan visited him in the hospital after that surgery, and Aygan's thriving relationship with Öcalan after that visit led him to join the PKK in 1977 (N. Çiçek, 2009b, p. 168). He staged armed attacks against security forces in the Hilvan and Siverek districts of Şanlıurfa. Then the PKK assigned him to another district of Şanlıurfa, Nizip, where his PKK commander was later executed by the organization on suspicion of being an agent of the Turkish state. This execution paved the way for his criticisms of the PKK in the following years. In 1980, Aygan was captured by security forces and sentenced to imprisonment for eighteen months. He was then sent to the army to complete his compulsory military service (Şahan & Balık, 2004). In 1982, while he was a soldier in Cyprus, he fled to the Greek Cypriot part of the island and went to

Greece, then to Austria, and finally to Germany, where he met with PKK militants again (Balık, 2011, pp. 24–25). After training in PKK camps, the organization sent him first to Syria and then to northern Iraq, where he stayed between 1983 and 1985, working as a courier between different PKK camps. He also took part in the first armed attacks of the PKK against the TSK in Hakkari and Siirt in 1984. Aygan's duty during these attacks was to guide militants through terrain that he was familiar with (N. Çiçek, 2009b, p. 168). In 1985 he witnessed the execution of another militant accused of being a spy, like his former commander in Nizip. Upon this execution, he escaped from the PKK and surrendered to Turkish military forces in 1985. Following his surrender, he was first interrogated at the Siirt Brigade Command by Major Cem Ersever, who convinced Aygan to become an informant under the Repentance Law in return for a quick release from jail in 1990 (N. Çiçek, 2009b, pp. 168–169). Otherwise, he would have been tried with life imprisonment. After his release in 1990, he was again conscripted into the military to complete the rest of his military service in Kars province in northeast Turkey. According to his own account, he was transferred from Kars to Diyarbakır by order of Colonel Arif Doğan and Major Cem Ersever, where Aygan became part of an eight-person JİTEM team led by Ersever (Düzel, 2009). When he finished his military service in 1991, his duty in JİTEM continued as a job. He was provided with a new identity card and was given a new career in the gendarmerie forces as a civil servant. His new identity was Malatya-born Aziz Turan, and his real identity was officially noted as "killed in combat" with the PKK (N. Çiçek, 2009b, pp. 169–174). During his years in JİTEM between 1991 and 2001, Aygan was involved in and observed many illegal activities of JİTEM, from making blacklists of people to kidnappings, torture, hostage-taking, murder, extortion, theft, and smuggling. Aygan resigned from JİTEM in 2001. He has lived in Sweden with his wife and five children since 2003, where he took political asylum as a "victim of war," ironically.

6.3.2. Aygan's Discursive Formation

Abdülkadir Aygan is the best-known confessing informant (*itirafçı*) – or repentant. He is also the individual who gave the most detailed explanation about JİTEM and its activities. His kinship with Öcalan and former affiliation with the PKK as a militant prioritizes his accounts as an insider of both the PKK and JİTEM. His past with both organizations likewise provides a broad spectrum to understand his motivations to join and quit these two hostile parties.

Aygan started to make statements about JİTEM after taking refuge – and thus securing himself – in Sweden in 2003. He was first interviewed by two journalists in Sweden, Timur Şahan and Uğur Balık, whom Aygan later accused of being PKK militants and distorting his accounts. This interview then turned into a book published in 2004: *İtirafçı: Bir JİTEM'ci Anlattı* ("Confessant: A JİTEM Member Spoke") (Şahan & Balık, 2004). Following this initial interview, he remained in the spotlight for a long time with new interviews, books about him (Şahan & Balık, 2004; Kalkan, 2006; Çiçek, 2009a, 2009b; Düzel, 2009; Balık, 2011), his own commentaries published on the website *www.nasname.com.tr*, and, in particular, his statements during the Ergenekon investigation.

In his accounts, Aygan gave detailed explanations of 58 murders (including those of Cem Ersever, Kurdish intellectual Musa Anter, Kurdish politician and human rights lawyer Vedat Aydın, Turkish journalist Uğur Mumcu, and Diyarbakır Police Chief Ali Gaffar Okan). Although his confessional accounts were not sufficient in solving these murders in the judiciary, due to the information that he gave, for instance, the bones of Kurdish men, Murat Aslan and Hasan Ergül, who had not been heard from for years, were found in 2005 and 2009 respectively (Bianet, 2005; Radikal, 2016). His accounts also prevented the trial for Musa Anter's murder from being time-barred in 2012 (Perpetrator Not-Unknown, 2019c).

Among the actor accounts on JİTEM, repentant accounts are the ones whose reliability was questioned the most by the Turkish public because of the unsettling past of these individuals with both the PKK and the state. Thus, Aygan's productive confessions, which led to the discovery of Aslan and Ergül's bodies and contributed to the continuation of the trial for Musa Anter's murder, relieved criticisms of his credibility as a former PKK member turned JİTEM informant.

Aygan's confessional accounts came to the fore most during the Ergenekon prosecution. For instance, he alleged that the Ergenekon suspects retired General Veli Küçük and retired Colonel Abdülkerim Kırca were in crucial JİTEM positions in the 1990s. According to Aygan's allegations, General Küçük carried out duties as JİTEM Group Commander in Ankara from 1990 to 1991 (Today's Zaman, 2008) and Colonel Kırca[81] served as JİTEM Diyarbakır Regional Commander

[81] Shortly after Aygan's claims, Kırca was found dead in his house on 19 January 2009. It is still debated whether his death was suicide or murder (Bianet, 2009a).

from 1992 and 1994 and was responsible for many murders in the region during his years of duty (Star, 2009).

To answer Küçük's maintained discourse of denial on JİTEM, Aygan published his JİTEM payroll (see Image 6.3) on the website *Nasname* on 17 December 2008 with an ironic explanation contradicting the Küçük's denial discourse: "The truth is that I worked in a fictitious 'non-existent' official institution for nine years" (Bianet, 2008).

Image 6.3: Gendarmerie Command Payroll for Abdülkadir Aygan, November 1992 (Bianet, 2008)

Jandarma Komutanlığı Maaş Pusulası (Kasım -92)

Sicil No	:5-J.27299	Kd. Süresi	: 1	Gösterge	: 535
Adı-Soyadı	:ABDULKADIR AYGAN	Medeni Hali	:EH2	Ek Gösterge	:
Sınıf,Rütbe	:SIVIL MEMUR	Derece/Kademe	:13/2	Görev Yeri	:JITEM

İSTİHKAKLAR						KESENEKLER			
Gös.EkGös. T. :	348,000	Yan Ödeme :	103,000	Gelir Vergisi :	224,000	Tas.Teş.Kes. :	347,000
Taban Ay. Tut.:	1,137,000	Asayiş Taz. :		Oy.Oye Aidatı :		Konut Yardımı :	
Kd.Aylığı Tut.:	9,000	Tayin Bedeli :	390,000	Oyak İkraz :		Kira :	
%20 Emek. Kes.:	334,000	Makam Taz. :		Oy. Mesk. Kr. :		İcra :	
%100 Artış :		Lojman Taz. :		Oy. Mal Kre. :		Damga Vergisi :	12,000
Aile Yardımı :	260,000	Özel Hiz.(TSK):	479,000	%35 Emek. Kes.:	584,000	O.Hal Kes. :	479,000
Yabancı Dil T.:		281. Taz. :	520,000	%200 Artış :		Özel Kesinti. :	61,000
Tas.Teş.Kes. :	207,000	O.Hal Taz. :	958,000	Hizmet Borç. :		Kes. Toplamı :	1,646,000
Konut Yardımı :		İs. Toplamı :	4,745,000	Emekli İkraz :		Ödenen Toplam :	3,038,000

ÖZEL KESİNTİLER					
Vergi İade Matrahı :	3,718,000	Yemek Bedeli :	61,000	Bl.J.Mrl.Sn. :	
		Kantin :		J.Gn.K.Mrl.Sn.:	
		Mehmetçik V. :		Telefon Ücr. :	
		Yardım :		Diğer :	
		Mutemet Kes. :		Toplam :	61,000

The status of Aygan is stated as a civil servant (*Sınıf, Rütbe: SIVIL MEMUR*) in the upper left of the document dated November 1992, and his duty place (*Görev Yeri: JITEM*) is indicated as JİTEM in the upper right of the document.

Indeed, this official document negates the state's plausible denial strategy about JİTEM in two ways. First, although the main denial strategy of state officials was to show the unit as organized outside of the army, this payroll clearly reveals JİTEM as a part of the gendarmerie body. Second, this document also demonstrates that the organization was continuing its activities in 1992, contrary to the allegations that JİTEM was abolished in 1990.

Like Akdağ, Aygan also pursues a self-exonerating strategy in his reports, in which he offers himself as a victim rather than a perpetrator. What makes Aygan's accounts interesting is that he talks about both the PKK and JİTEM as an insider. Thus, his strategy for self-exoneration worked in two ways according to his past with these two hostile organizations. First of all, he acknowledged his agency in having participated in these two organizations willingly, but he related this agency to the compelling effects of circumstances rather than dispositional factors.

While his accounts reveal his compliances and contradictions with the PKK and JİTEM, his discourse is generally formed around a denial of agency for his role in the activities of these organizations. For this reason, at every opportunity, Aygan criticized the journalists and authors who introduce him as a murderer in their media coverage and books. According to him, by presenting him as a villainous murderer, these people abused his goodwill in making confessions about the PKK and JİTEM (N. Çiçek, 2009a, pp. 26–31).

In what follows, through his accounts on the PKK and JİTEM, I will discuss the innocent repentant profile that Aygan tries to maintain in contrast to portrayals as a murderer.

6.3.3. On the PKK

As mentioned earlier, repentants' pasts with the PKK have often caused their accounts to be approached with suspicion by both state officials and society – so much so that their accounts and confessions on the PKK and JİTEM always required verification to be considered reliable by the state when they applied for the Repentance Law and by society when they offered their confessions about JİTEM. Thus, looking at Aygan's accounts of his PKK years is important to understand not only his liminal position between the state and the PKK but also between these two and society. The following is a brief account of Aygan's motives behind his involvement and his break with the PKK and JİTEM.

On 28 January 2009, Abdülkadir Aygan was interviewed by journalist Neşe Düzel from the liberal daily *Taraf*[82]newspaper. In this interview, he stated that he had written a 130-page statement when

[82] *Taraf* was a daily that attracted attention with its anti-military news, especially during the Ergenekon investigations. Leaked documents on military coup plans published in *Taraf* crucially damaged the social image of

he surrendered to the Turkish military forces in 1985 (Düzel, 2009). Surprisingly, I reached some parts of Aygan's statement in a book that I encountered in a second-hand book bazaar in İstanbul in 2018. This book, entitled "*Çılgınlıktan Sağduyuya: İtirafçılar Anlatıyor* (From Madness to Common Sense: Confessants Tell)" was published in 1987 as a propaganda book to attract more "terrorists" who would benefit from the Repentance Law (Şenel, 1987). The book is composed of articles praising the Repentance Law, which was published in the bi-weekly pro-state journal *Yeni Forum* between 1986 and 1987, and includes documents and accounts of members of four "terrorist" organizations (i.e., leftist TKP-ML, DEV-SOL, and the PKK) who benefited from the Repentance Law. One of these documents included in the book is Abdülkadir Aygan's written statement. When we look at this statement, we see that Aygan justifies his participation in the PKK with some special reasonings. Among the most important, he lists his relationship with his family, his character traits, and the regional factors of life in the Southeast.

Accordingly, he was the child of a peasant family who barely made their living by windlassing and farming, and he could not relate to his parents because he lived far from his family for education (Şenel, 1987, p. 101). He also emphasizes that he had personal traits such as helping disadvantaged people and reacting to injustice due to his character. According to him, these dispositional traits later brought him closer to the supporters of his relative Abdullah Öcalan (*Apocular*), especially after having dropped out of school and his favorite sport, *athleticism* (Şenel, 1987, p. 105). Apart from these personal reasons, he also underlines the socio-economic conditions of the Southeast. According to him, the region was economically and socially lagging behind other parts of the country. For this reason, he was particularly affected by the propaganda discourse of the PKK that the Turkish state was a "colonial" state and northern Kurdistan was a "colony" (Şenel, 1987, p. 100).

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the TSK and affected the course of the Ergenekon investigation at that time. After the unsuccessful military coup attempt on 15 July 2016, the newspaper was closed by an emergency decree on 27 July 2016 because of its alleged links with the Gülen movement (CNN Türk, 2016).

In his statement, Aygan also explains why he highlights these three interrelated factors that brought him closer to the PKK. As he notes, he wants to challenge the discourse of "I was deceived by the organization to join them," which was often embraced by other PKK defectors during their surrender (Şenel, 1987, p. 100). While he admits that perhaps some people might have been deceived, he makes it clear that there was no deception for him: He joined the PKK of his own free will.

As such, Aygan joined the PKK in 1977. During his time with the organization, his duty was more concerned with logistical tasks such as guiding guerrillas and the provision of supplies (Kalkan, 2006, p. 66). In his statement, he articulates that his discontent with the PKK started in 1979 for two main reasons. The first one was about the organization's strict rules, which did not give importance to the traditional values and beliefs of Kurdish society (Şenel, 1987, p. 107). Tending to solve everything by resorting to force, the organization was undertaking arbitrary armed actions that harmed civilians. Aygan, in an interview turned book in 2006, clearly criticizes the PKK's village raids against peasants whom the organization accused of being spies. As he emphasizes, this attitude of the PKK against civilian Kurds contradicted his purpose of joining the organization:

> I did not go up to the mountains [*i.e., to join the PKK*] to kill Kurds. I went up to the mountains not to kill the poor villagers but to fight injustice and state oppression. At least that was the way I thought then, and I sacrificed everything for this aim.[83]

While the first reason was Aygan's dissatisfaction with the organization's external operations against civilians, the second reason for his discontent was related to intra-organizational executions. According to him, the organization first accused militants who opposed its rules and actions of being a state spy, traitor, provocateur, or reformist nationalist and then tried and executed the accused guerillas (Şenel, 1987).

Aygan not only witnessed some of his comrades being executed in this way; he faced a similar charge himself. According to his written statement, he first attempted to leave the organization in

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[83] "Ben Kürtleri öldürmek için dağa çıkmadım. Ben haksızlığa, baskıya karşı dağa çıkmıştım. En azından o zaman böyle düşünüyordum. Her şeyimi bunun için feda ettim" (Kalkan, 2006, p. 68).

the spring of 1979, but that attempt resulted in him being accused of being a traitor. This accusation also meant that he would be executed by the organization. However, he was later convinced by his organizational superiors that this accusation against him would be lifted if he returned to the organization. Aygan highlights in his statement that he chose to return to the organization at that time because he had no other choice or guarantee protecting him from PKK violence. He expresses his despair with the following sentence: "Then I understood that joining the organization was voluntary, but leaving it was not voluntary" (Şenel, 1987, p. 107). This sentence also explains why Aygan waited until 1985 for his next attempt to leave the organization because, at that time, he had legal protection due to the first enactment of the Repentance Law in the same year.

Abdülkadir Aygan surrendered to the Turkish Armed Forces in Siirt in June 1985. He went through a two-month interrogation process at the Siirt Gendarmerie Command. Aygan mentions that the military treatment there was surprising for him. While he was awaiting torture and humiliation from military officials, he states that he did not encounter any of these methods during his interrogation: "The officials of the state, who I was in a deadly conflict with until yesterday, were very kind to me."[84] Aygan also met Cem Ersever for the first time during this interrogation in Siirt. He asserts that Ersever was in a position that took orders directly from Ankara at that time. In his words, "Cem Ersever had enough power to direct both Hikmet Pasha [*i.e., Hikmet Köksal – JAK Commander*] and Hayri Kozakçıoğlu [*i.e., the OHAL Governor*] according to his own wishes."[85] The later development of the process for Aygan also confirms this observation.

After Aygan's interrogation process was completed, he was arrested under Article 125 of the Turkish Penal Code and sent to Diyarbakır Prison. Article 125 pertained to crimes targeting the country's indivisible integrity and punished people involved in these crimes with the death penalty. Aygan, however, avoided that penalty by benefiting from the Repentance Law. In exchange for a reduced sentence, he shared all the information he knew about the PKK with state officials (Şenel, 1987, pp. 112–113). As a result, he served only a five-year prison sentence between 1985 and 1990.

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[84] "Daha düne kadar düşman bilip karşısında silahlı mücadele verdiğm devletin yetkilileri, bana karşı çok nazik davranıyorlardı" (N. Çiçek, 2009b, pp. 187–189).

[85] "Cem Ersever hem Hikmet Paşa'ya hem de Hayri Kozakçıoğlu'na istediklerini yaptırabilecek güçteydi" (Şahan & Balık, 2004, p. 18).

After his release in 1990, he was sent to northeastern Kars province to complete his compulsory military service.

Aygan states that his relationship with JİTEM started during his military service. According to him, a phone call that he received from Diyarbakır launched his relationship with JİTEM. This call came from Colonel Arif Doğan, who offered to let him continue his military service in a place closer to his family if he wished. Explaining this unexpected phone call in the interview in 2006, Aygan mentioned Arif Doğan as the Diyarbakır JİTEM head and Cem Ersever as his deputy (Kalkan, 2006, p. 70). Aygan's response to this offer was positive, unaware that this critical decision would start his work with JİTEM, which would last until 2001.

6.3.4. On JİTEM

Upon accepting the offer from Diyarbakır, Aygan was first sent to the Gendarmerie Training Regiment in the Silvan district of Diyarbakır to complete the recruit training and was then transferred to the JAK. His new duty place was a small two-story building adjacent to the OHAL Governorate building in the Şehitler district of Diyarbakır. This small building was actually for the JİTEM Group Command (N. Çiçek, 2009b, p. 193). Aygan states that there were also other repentants in his new place of duty. He explains the presence of repentants in this special unit in two ways:

> On the one hand, we were all obliged to do our compulsory military service at the commanded place. On the other hand, we were already the target of the terrorist organization [*i.e., the PKK*]. So we had no choice but to follow the orders. According to the organization, we were already spies and traitors, so we, the so-called *itirafçılar* [*i.e., repentants*], needed a guarantee to protect ourselves. And we already considered the PKK as an organization that harmed the Kurdish people, so it was essential for us to fight it.[86]

[86] "Hem zorunlu askerliğimizi istenilen yerde yapmaya mecburduk, hem de zaten hepimiz "terör örgütlerinin hedefi durumundaydık." Bu yüzden verilen emirleri yerine getirmekten başka bir seçeneğimiz yoktu. Örgüte göre "zaten biz ezelden beri birer ajan ve hain idik. Biz "itirafçı" olarak adlandıranlardan da kendimizi korumak için bir yere

This quote again highlights the liminal position of reconciled rebels between the state and the PKK. Nevertheless, the last sentence of the quote also reveals their own motivations for joining JİTEM. Accordingly, JİTEM was not only a place where repentants were forced to work under military command but also a place of shelter, where they were under state protection and had the chance to fight against the PKK, which had already disappointed them. With the above quote, Abdülkadir Aygan confirms that he did not see any harm in joining JİTEM with the motive of fighting against the PKK. However, it was a more safety-oriented consideration that would lead him to continue working for JİTEM even after finishing his military service:

> Before some of my repentant friends and I finished our military service, we had been offered to continue to work as civil servants in the military. I did not welcome this offer at first, because I was disturbed by the way JİTEM used us against the PKK during my military service. I was under command during this service, and I had to do what I was told. But, considering the organization's [*i.e. the PKK's*] negative opinion about me and what it did to those who left it, I decided that I had to work with the state after my military service. If I turned down the offer and tried to live like an ordinary citizen, the PKK would not leave my family and me in peace. *All in all, I was a former terrorist according to the state, and a spy, traitor, and informant according to the PKK* [*emphasis is mine, Ed.*]. Even if I stayed with my relatives, not even my brother would protect me because of the fear of the organization. Only those who share the same fate as me would understand these facts.[87]

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dayanmak zorundaydık. Ve zaten örgütü, Kürt halkına zarar veren bir organizasyon olarak görüyorduk. Bu yüzden de onunla mücadele etmek şarttı" (N. Çiçek, 2009b, p. 194).

[87] "Askerliğimiz bitmeden önce, bize askerde sivil görevliler olarak kalıp çalışmaya devam etmemiz teklif edilmişti. İlk başta bu teklife sıcak bakmadım. Çünkü asker iken JİTEM'in bizi PKK'ya karşı nasıl kullandığını görmüştüm. O zaman emir altındaydık ve mecburduk. Fakat örgütün benim hakkımdaki olumsuz görüşü ve kendilerinden ayrılanların başına neler getirdiğini düşününce, devletle çalışmak zorunda olduğuma karar verdim. Ayrılıp başka bir yere gidip, sıradan bir vatandaş gibi yaşamaya çalışsam da PKK beni ve çevremi rahat bırakmazdı. Ne de olsa devlete göre eski teröristtim, PKK'ye göre ise bir ajan, hain ve itirafçıydım. Akraba çevreme gidip kalmaya çalışsam

In this quote, Aygan expresses his desperation in being a former terrorist according to the state and a target according to the PKK. As such, he felt that he had no choice other than joining JİTEM, which he perceived as a source of shelter for his own and his family's security. This shelter not only relieved his security concerns; it also provided an economic opportunity for a *former terrorist*. As I mentioned in Chapter 3, one of the frequently discussed issues is that the repentants working for JİTEM benefited from many opportunities from the state and the OHAL Governorate. Aygan's accounts below clarify this issue further.

Aygan states that he started to work for JİTEM as a civil servant under Civil Servants Law No. 657 in 1991 when his military service was over (Şahan & Balık, 2004, p. 20). He was included in this status with his new national identity card, issued under the name of Aziz Turan. Accordingly, the state officially registered the *real* Aygan as a martyr who had died in a clash with the PKK during military service (N. Çiçek, 2009b, p. 172).

This new identity provided an opportunity for protection from the PKK; furthermore, it meant a new life. In his new life, Aygan was part of JİTEM's repentant team in Diyarbakır. In his first confessional interview in Sweden in 2001, he disclosed the names and images of other repentants working for the same team (Şahan & Balık, 2004, p. 20). With several of them seen in Image 6.4 below, the other repentants of the Diyarbakır JİTEM team led by Cem Ersever included Recep Tiril, Ali Ozansoy, Fethi Çetin, Hayrettin Toka, Adil Timurtaş, İbrahim Babat, and Selahattin Görgülü (Şahan & Balık, 2004, p. 20; Kalkan, 2006, p. 71; N. Çiçek, 2009b, p. 169).

örgütün korkusundan öz kardeşim bile bana sahip çıkamazdı. Bu gerçekleri ancak benimle benzer kaderi yaşayanlar bilebilir" (N. Çiçek, 2009b, pp. 199–200).

JİTEM elemanları 1990-1991 yıllarında Diyarbakır'ın Şehitlik semtinde yeralan JİTEM Bölge Karargahı'nda toplu halde.

Image 6.4: "JİTEM repentants at the JİTEM Base in the Şehitlik district of Diyarbakır in 1990–1991" (Tenbih, 2018)

Abdülkadir Aygan also confirmed that the OHAL Governorate allocated an apartment for him and his family in the governorate's public housing in the Kurtoğlu district of Diyarbakır:

> They [*i.e., officials*] said that this place was safe, there were sentinels and Special Operation Forces around and so nobody would harm us. We agreed, and they gave us all kinds of household items, from an armchair to pots.[88]

Apart from these conveniences, JİTEM also gave them personal guns to protect themselves. According to Aygan, the ranked officers working for JİTEM arranged the guns to be used by the repentants. Furthermore, these weapons did not have to have official licenses. In his first interview in 2003, Aygan emphasized that fake weapon licenses could be easily issued by police officers in the region (Şahan & Balık, 2004, pp. 29–30). He affirmed that the personal pistols most preferred by JİTEM were of the Smith & Wesson brand. Apart from personal guns, Aygan also claimed that

[88] "Onlar buranın emniyetli, çevresinde nöbetçi ve Özel Harekatçıların olduğunu, bize kimsenin zarar vermeyeceğini söylediler. Kabul ettik ve koltuğundan kapkacağına kadar bize her çeşit ev eşyası verdiler" (Şahan & Balık, 2004, p. 18).

some of the Kalashnikov rifles used in JİTEM operations had originally belonged to PKK militants who died in the clashes (Şahan & Balık, 2004, pp. 29–30).

Another issue under debate was the cars used by JİTEM. As I noted in Chapter 3, JİTEM operations were identified with Renault's Taurus model cars (*Beyaz Toros*), which were the official vehicles used by the Turkish National Police and Turkish Gendarmerie Forces for a long time. What Abdulkadir Aygan adds to this official information is that they used fake license plates for these vehicles during the operations. He also contended that JİTEM seized and used the cars of those whom it executed (N. Çiçek, 2009b, p. 197).

JİTEM's unlicensed guns and cars with fake plates demonstrate that the organization actually had legal concerns regarding the possibility of disclosure of its operations. This concern likely stemmed from the organization's illegal existence and operations within the JAK. In the *Taraf* interview in 2009, Aygan stated that they had had this concern even during the interrogations at the JİTEM building within the campus of the OHAL Governorate. About the executions and torture that took place in the JİTEM building, he says:

> These murders were always carried out at night, and torture was carried out after work hours in the evening when the regular soldiers had gone back to their ward. There were ordinary soldiers working as tea makers, post officers for JİTEM during the day. […] There were other military units and institutions in the area. They were not supposed to hear the sounds from the torture […] (Düzel, 2009).

Journalist Ersin Kalkan also emphasized the illegal status of JİTEM in his interview with Aygan in 2006, asking him: "JİTEM has no legal basis. That's why officials say there is no such organization. Within which legal boundaries did you act?"[89] Abdülkadir Aygan replied: "We did not have such a problem. We were acting illegally in an irregular conflict."[90] This answer also confirms the account of another repentant, İbrahim Babat, which I discussed in Chapter 3: "JİTEM had an illegal

[89] "JİTEM'in yasal bir dayanağı yok. Bu yüzden yetkililer böyle bir örgütün bulunmadığını söylüyorlar. Siz hangi sınırlarda hareket ediyordunuz?" (Kalkan, 2006, pp. 71–72).

[90] "Bizim böyle bir derdimiz yoktu. Gayrı nizami süren bir çatışmanın içinde gayri kanuni yollarla hareket ediyorduk" (Kalkan, 2006, p. 72).

formation. We had the authority to execute everyone in Diyarbakır and around it who we suspected was related to the PKK" (Ağaşe, 2009, p. 206).

As we discussed earlier in Chapter 3, the primary illegal activity of JİTEM, as a death squad, was extra-judicial killings. In his 2006 interview, Aygan elaborates the logic behind the high-profile targeted killings of publicly known intellectual figures with reference to a sentence that Aygan claims Cem Ersever often voiced during his duty: "The militant on the mountain is not my enemy" (Kalkan, 2006, p. 79). Accordingly, the real enemies were politicians and theorists who were working to strengthen the Kurdish political movement in Turkey, which was also the aim of the PKK. Thus, the primary aim of such murders was the intimidation of people who shared similar political thoughts with those who were killed (Kalkan, 2006, p. 80). By this logic, participation in the Kurdish political struggle and the fulfillment of the demands for the Kurds' political, social, and cultural rights would be prevented – or at least accompanied by great fear – with these high-profile murders.

As also mentioned in Chapter 3, JİTEM committed murders through kidnapping or illegal detention. While dead bodies – especially in intimidation murders – were thrown into remote areas by JİTEM vehicles, Aygan additionally talks about ordinary victims whose bodies could not be found. According to his claim, JİTEM disposed of many corpses in acid wells belong to the state-owned Turkish Pipeline Corporation (BOTAŞ: *Boru Hatları ile Petrol Taşıma Anonim Şirketi*) in the Silopi district of Şırnak (Duvaklı, 2010, p. 103). JİTEM perpetrators' ability to use the state-owned BOTAŞ wells again evokes the ambiguous relationship between JİTEM and the state. Accordingly, a paramilitary organization denied by the state was easily using the campus of another state institution to cover up its murders.

Aygan's most significant claim regarding JİTEM's relationship with the state is that Tansu Çiller was the primary financial supporter of JİTEM (Şahan & Balık, 2004, p. 36). Aygan alleges that the OHAL Governorate had a discretionary fund that also covered the salaries of unofficial informants working for intelligence services, including JİTEM. He emphasizes that Tansu Çiller was very generous with the budget for this fund during her time as prime minister (1993–1996) (Şahan & Balık, 2004, p. 37).

Aygan also talks about the activities of the repentants, including himself. Although it is not possible to confirm the exact number of former PKK militants benefiting from the Repentance Law, he names twenty-seven repentants working for JİTEM (Şahan & Balık, 2004, pp. 127–128).[91] According to his account, and as also previously emphasized by Cem Ersever, these people, while working for different JİTEM teams, started to act in their own personal interests over time, taking advantage of the unstable power dynamics in the OHAL region. Due to their excellent command of the Kurdish language and their good knowledge of the OHAL region, the repentants were dressed in guerrilla clothes and included in many illegal operations by JİTEM. As Aygan claims, sometimes, in their guerrilla outfits, they intercepted minibusses and usurped valuable jewelry, especially that of female passengers (Şahan & Balık, 2004, p. 66).

Aygan also emphasizes that most of the repentants acted arbitrarily and independently of the regional authorities. He particularly stresses certain names: For instance, Alaattin Kanat was able to enter the building of the OHAL Governorate in Diyarbakır as he wished and met with the governor and military officials personally. A team consisting of Abdülhakim Güven, Hıdır Altuk, Adem Yarkın, and Hüseyin Bülbül in Şırnak and Cizre engaged in arbitrary murders for their own interests and were involved in ransom and racketeering incidents to increase their personal gains (Şahan & Balık, 2004, pp. 65–67).

Undoubtedly, the OHAL rule and the misuse of the Repentance Law were influential in the arbitrariness of these repentants and their becoming a regional power. However, the real question here is: What prevented Abdülkadir Aygan from also enjoying this arbitrariness? What prompted Aygan to speak against JİTEM and the OHAL Governorate in general? The following section will offer an answer to these questions in light of Aygan's verbal performance.

6.3.5. Aygan's Verbal Performance

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[91] 1) Fethi Çetin, 2) Ali Ozansoy, 3) Hüseyin Tilki, 4) Recep Tiril, 5) Hüseyin Toka, 6) Adil Timurtaş, 7) Binevş Alsaç, 8) Saniye Emlük, 9) Kemal Emlük, 10) Hatice Elmas, 11) Hasan Adak, 12) Hanım Beyaz, 13) Murat Aydın, 14) Halit Çelik, 15) Murat Demir, 16) Lokman Çetin, 17) Alaattin Kanat, 18) İbrahim Babat, 19) Şırnaklı Hamid, 20) Abdülhakim Güven, 21) Hıdır Altuk, 22) Adem Yakın, 23) Hüseyin Bülbül, 24) Mesut Mehmetoğlu, 25) Muhsin Gül, 26) Mustafa Deniz, 27) Sefer Bildik.

In his 2003 interview, Aygan states that 80–85% of the extra-judicial executions in the OHAL region were committed by JİTEM, and he adds that he felt great unrest and found solace in alcohol due to the events that he witnessed (Şahan & Balık, 2004, pp. 70–71). In other words, Aygan became an alcoholic to avoid his responsibility in the events. He describes this responsibility as inevitable complicity:

> When you are in a mechanism or a group, you are responsible for what the group does, whether formally or informally. You move with the group; you breathe in the same environment; you see the same things. They give you a task, and you do it. In other words, it is complicity. I was in all the actions that I mentioned at the Gendarmerie Group Command. I witnessed dozens of events or took part in them. […] I relied on alcohol to forget these events. There was no peace in my family. My life turned into a nightmare.[92]

Aygan implies in this quote that there was no chance to act of his own free will in the incidents that he was involved in or witnessed. He also presents himself as a person who was uncomfortable with the activities of JİTEM. The only way for him to efface the unsettling memories of these events was alcohol.

One of the most important issues for which Aygan questions his past with JİTEM is the situation of the repentants. He critically expresses that no matter how good they were for the state, the repentants would always retain their Kurdish and former PKK terrorist identities in the eyes of the state (N. Çiçek, 2009a, p. 183). According to him, repentants were useful only as long as they were used to fight against dissident and rebel Kurds. In Aygan's eyes, repentants are just Kurds who helped in the murders of people of the same ethnic origin.

This reasoning, which pushed Aygan away from JİTEM after many years of complicity, also shaped his awareness of the repentants' situation. Many other repentants did not see any harm in

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[92] "Bir mekanizma veya bir grup içinde olduğun zaman, resmi veya gayri resmi olsun, grubun yaptığı şeylerden sen de sorumlusun. Grupla birlikte hareket ediyorsun, aynı ortamı teneffüs ediyorsun, aynı şeyleri görüyorsun. Sana da bir görev veriliyor, yapıyorsun. Yani suç ortaklığı. Ben Jandarma Grup Komutanlığı'nda yapılan, saydığım eylemlerin hepsinde vardım. Onlarca olaya şahit oldum veya içinde yer aldım. Bu olayları unutmak için alkole başvurdum. Ailede huzur kalmadı. Yaşamım bir kabusa dönüşmüştü" (Şahan & Balık, 2004, p. 71).

committing crimes against their own people and even became involved in those crimes for their own personal gains, but this situation caused great discomfort for Aygan. The incident that finally drove him away from JİTEM was his fight with Abdulhekim Güven, another repentant who pursued his personal interests. During the fight between Aygan and Güven, Aygan injured Güven with a gun because he was disturbed by Güven's excessive behaviors during a visit to Aygan's relatives in Mersin. Upon this incident, Aygan states that he first thought of resigning completely, but then decided to ask to be appointed to another city, considering his vulnerable situation between the state and the PKK (N. Çiçek, 2009a, pp. 183–185).

As a result, Aygan was appointed to the Burdur Provincial Regimental Command in 1999 (Çiçek, 2009a, p. 184). He became a passive civil servant in the intelligence department of the command. In contrast to the southeastern region of Turkey, where OHAL rule continued at that time, Burdur is located in southwestern Turkey. Therefore, while it was supposed to be a calm and safe assignment of duty away from the chaotic OHAL region, Aygan states that this province, in fact, was a place of exile. Police and soldiers who had problems in the army or security forces were sent there and kept under strict control by the state. Aygan, who was unarmed for the first time in this civil servant post, explains that he did not feel safe there because his phone was being tapped and his guests were being investigated by state officials (Şahan & Balık, 2004, p. 72).

With this strict control and pressure on his life, he decided to leave his post and fled to another city with his family. Despite the economic problems that he faced in his new life and his commanders' efforts to get him back, he finally signed the petition stating "I willingly withdraw from my civil service" and ceased all ties with the army (Şahan & Balık, 2004, p. 72). Aygan's response to the officer who tried to persuade him to stay in the army with the words "state your regret and take back your petition" was quite meaningful: "I used this regret once; it cost me my life. I will not use it again" (Şahan & Balık, 2004, p. 72). Aygan here implies his regret for what happened to him under state protection. It seems that his initial regret for his PKK activities was eventually transformed into remorse for his JİTEM involvement.

His resignation from the gendarmerie also removed his shield of protection, making him vulnerable to both the state and the PKK. On the one hand, he was vulnerable to the state because he had witnessed many illegal activities in the OHAL region with many state officials' involvement. Aygan's possible statements about these testimonies could have meant revealing many dirty

relationships established in the OHAL region that would have left the state in a difficult situation. On the other hand, he was already on the blacklist of the PKK for fleeing the organization; worse, he had shared everything he knew about the organization with the state.

Nevertheless, it was the PKK that offered to help him on the condition that he would publicly share what he witnessed during his service with JİTEM (Çiçek, 2009a, p. 228). Aygan claims that he had already decided to speak up, due to the long-lasting pressure on his conscience, but he also had a condition for the PKK in return for speaking up: the organization must take him abroad (N. Çiçek, 2009a, p. 228). Otherwise, he believed that JİTEM would not allow him and his family to live. Thus, with the PKK's help, he managed to take refuge in Sweden in 2003 and began to make confessions about his JİTEM past there.

The interrelated themes of Aygan's verbal performance are denial of responsibility, heart-searching, and self-exoneration. The denial of responsibility in his accounts originates not from the role he took in JİTEM activities but from his lack of capacity to refuse those roles while the events were happening. In this sense, I find Aygan's YouTube interview with the freelance journalist Bahattin Çağdaş in 2011 (Çağdaş, 2011) to be crucial because he makes a comparison very similar to the cog and machinery analogy of Hannah Arendt.

In her classic book based on her observations of Nazi official Adolf Eichmann's trial in Israel in 1961, Arendt likens perpetrators of organized crimes to the tiny cogs in machinery (Arendt, 1994). In his 2011 interview, Aygan also compares JİTEM to a mechanism, and the people who took part in this mechanism to cogs or screws on the cogs (Çağdaş, 2011). With this analogy, Aygan implies that if there was a problem that disrupted the mechanism, the only way to fix it was to replace the cogs or screws with new ones. Having been one of those screws once, with this metaphor, Aygan actually underlines his *bounded rationality* between external and internal drives.

Rational choice theorist Herbert Alexander Simon uses the term "bounded rationality" to refer to situations where the assessment of all advantages and disadvantages in a decision-making process is not possible. In such cases, people tend to make the most satisfactory choice instead of the most optimal one (Simon, 1957). That is to say, there is an interactional relationship between internal and external drives that affects the decision-making process of a person. To elaborate on this inter-relationality between internal and external drives, Waller introduces the dispositional

and situational components of rationality (Waller, 2002, p. 175). Emphasizing the meaninglessness of the contest between dispositional and situational explanations, he asserts:

> Not only do situations affect the person, but people also influence situations, primarily by our choice or creation of situations most conducive to the expression of our personalities. In other words, we are partly the products of our situations, but we are producers of our situations as well (Waller, 2002, p. 175).

Considering all the advantages and disadvantages of Aygan's decision-making process to leave JİTEM or continue working, it is obvious that his decision was determined by external drives rather than internal ones for a long time. The most critical external drive here was his extremely precarious position between the state and the PKK as a PKK defector. Thus, he saw the state as the most satisfactory option for having shelter against PKK violence, although his internal drives forced him into heart-searching because of his discomfort with the illegal activities of JİTEM. Indeed, he decided to leave JİTEM only when an open confrontation with another JİTEM repentant occurred, and he made confessions about the past only after his fragile situation between the state and the PKK was resolved with his taking refuge in another country.

Aygan's heart-searching is related to his troubled past experiences in JİTEM as a perpetrator and witness. In another interview turned into a book in 2009, he underlines that his past does not leave him alone, although he lives in a safe environment in Sweden:

> Memories never leave people alone. Although I have been in a free environment in these last three years, I remember what I did with JİTEM in the past every night in my sleep. I always see a constant chase in my nightmares, and I wake up shouting.[93]

Why did Aygan choose to speak up, although he lives a safe and comfortable life in Sweden? The above quote, which reveals Aygan's trauma related to the past, confirms Susannah Radstone's

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[93] "Geçmiş anılar insanın yakasını bırakmıyor. Bu 3 yıl içinde özgür bir ortamda olmama rağmen her gece rüyamda geçmişte JİTEM'le birlikte yaptıklarımı yeniden yaşıyorum. Sürekli bir kovalamaca görüyorum ve bağırarak uykudan kalkıyorum" (N. Çiçek, 2009b, p. 176).

analysis of the "turning of the subject inside out," which refers to the internal collapse of a subject pushing him/her to make confessions (Radstone, 2006, p. 170). Aygan also makes it clear that he chose to speak to relieve his conscience:

> I tried to fulfill a humanitarian duty by uncovering JİTEM as a dirty war organization. I tried to reveal the shame of the Turkish army and Turkish 'democracy.' I tried to prevent future murders by explaining the unsolved murders committed by JİTEM. I wanted people who lost their relatives to have a grave where they could go and mourn. *I wanted to relieve my conscience by sharing the secrets that had gnawed at me for years and gave me pain every day* [*emphasis is mine, Ed.*].[94]

This quotation demonstrates that he also had another aim apart from relieving his conscience. According to him, revealing the existence and activities of JİTEM would also benefit the Turkish army and Turkish democracy. Moreover, he believes that his disclosures will lead to the removal of such illegal organizations from the state in the future.

For him, it is a matter of a mentality that must be cleansed from within the state. He defines this mentality with a racist ideology that makes people ready to kill Kurds (N. Çiçek, 2009a, p. 30). Accordingly, whether or not Aygan worked for JİTEM, these murders would have been committed through the enthusiasm of racist individuals. Nevertheless, according to Aygan, the state's expertise here was hidden in its success in incorporating insiders, namely Kurds, like Aygan, who left the PKK and regretted their past there. At this point, Aygan calls out to other repentants who work for JİTEM:

> I have a call to the repentants or those who think about becoming a repentant. They may not like the situation they are currently in and may react to it. They may react due to the mistakes of those responsible for their former organizations or may change

[94] "JİTEM gibi kirli bir savaş organizasyonunu deşifre etmekle bir insanlık görevini yerine getirmeye çalıştım. Türk ordusunun ve Türk "demokrasisi"nin bir ayıbını gözler önüne sermeye çalıştım. JİTEM tarafından işlenen faili meçhulleri açıklamakla gelecekte işlenebilecek cinayetleri engellemeye çalıştım. Yakınlarını kaybeden insanların, hiç değilse gidip başucunda ağlayabilecekleri bir mezarları olsun istedim. Yıllarca içimi kemiren ve bana her gün acı veren sırları kamuoyuyla paylaşıp, vicdanen rahatlamak istedim" (N. Çiçek, 2009a, p. 30).

> sides due to their personal anxiety and fears. These are one's own preferences, regardless of whether they are good or bad. There is nothing to say about this, because everybody has a reason. However, they shouldn't let themselves be used by the state. There must be heart-searching in humans. Was the path I got onto after leaving my organization [*i.e., the PKK*] correct? It is meaningless to work for the state as a repentant. They should not allow the state to use them lifelong. I'm telling those who are currently working as repentants: better lose the saddle than the horse. Based on my own experience, I can say that it is illogical for them to continue in this way. Repentants are disposable for the state. They are the expendable ones for state interests. This is inevitable.[95]

Aygan thus acknowledges that he was used by the state as a former repentant against his own people, *Kurds*.

Undoubtedly, Aygan's accounts that include denial of agency and heart-examination accommodate a self-exoneration strategy. Accordingly, he was a victim of the whole process rather than a perpetrator of past crimes. In this story, he was manipulated and persuaded by state officials to become involved in the illegal activities of JİTEM because of his fragile position against the PKK.

I also consider his decision to talk about past wrongdoings as part of this self-exoneration process. Aygan distinguishes himself from other perpetrators with his confessional practice. For this reason, he opposes the journalists who interviewed him later referring to him as a murderer or hitman in their stories and even in their book titles, like *Katille Buluşma* ("Meeting with the Murderer," 2006)

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[95] "İtirafçılara ya da bu düşünceyi paylaşanlara bir çağrım olacak. Gittikleri yolu beğenmeyebilirler, tepki gösterebilirler. Bağlı bulundukları örgütün başındaki sorumluların hatalarından dolayı tepkili olabilirler veya şahsi kaygı-korkularından dolayı saf değiştirmiş olabilirler. Bu insanın iyi ya da kötü kendi tercihidir. Buna bir yorum getirmek istemiyorum ama herkesin muhakkak bir nedeni vardır. Devlet tarafından kullanılmasınlar. Kimin neye hizmet ettiği bellidir. İnsanda bir vicdan muhasebesi olması lazım. Ben örgütümden ayrıldım ama benim içine girdiğim yol çok mu doğru? İtirafçılık yaparak bir yere varılmıyor. Ömür boyu kullanılmamalılar. Şu an itirafçılık yapanlara da söylüyorum. Zararın neresinden dönerseniz kardır. Devam etmek mantık dışıdır. İnsani değildir. Ben yaşadım bunları. İtirafçılar devlet tarafından bir yerden sonra atılır. Kullanılıp atılır. Bu kaçınılmazdır" (Çiçek, 2009b, pp. 176–177).

by Ersin Kalkan and *Kerberos: PKK'den JİTEM'e Bir Tetikçinin Anatomisi* ("Cerberus: Anatomy of a Hitman from the PKK to JİTEM," 2011) by Uğur Balık. Abdülkadir Aygan finds these labels unfair because he is not merely an ordinary murderer or hitman; he is also a confessant who talks about JİTEM activities.

Of course, Aygan made these confessions, which affected the Ergenekon and JİTEM trials, in Sweden, where he felt safe. Although Aygan's extradition was requested by Turkey so that he would testify in court during the JİTEM trials, this extradition has not been realized yet because of Aygan's distrust of the Turkish state. Accordingly, Aygan is ready to explain what he knows about past crimes before the court, but on one condition:

> I was an ordinary militant when I was in the PKK, and I was an ordinary officer while working for the state. I am ready to "confess" my crimes publicly again and serve my sentence before an independent judiciary. However, I have a condition for this: Those who commanded and directed me and others in my situation must also be judged.[96]

In this quote, Aygan explicitly questions the state's intentions of dealing with past crimes. As I will detail in Chapter 7, this question has been one of the most discussed issues during the JİTEM trials. The lack of an effective investigation into state officials during these trials and the fact that the cases result in acquittal one by one reinforce the argument that these cases actually serve as show trials rather than carrying the sincere intention of the state to face its past wrongdoings.

6.4. Discussion

The most important feature that distinguishes the accounts in this chapter from those in Chapters 4 and 5 is that they are confessional narratives explicitly revealing the functioning of JİTEM within the state. At the same time, the confessional accounts of Bedran Akdağ and Abdülkadir Aygan constituted a contradiction to the previous accounts of military officials of JİTEM. For example,

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[96] "PKK'dayken sıradan bir militandım, delvet görevinde de sıradan bir memurdum. Bu sıfatlarla bana işlettirilen tüm suçlarımı kamuoyu önünde, bağımsız yargı önünde samimice bir daha "itiraf" etmeye ve cezamı çekmeye hazırım. Ancak bir şartla… Beni ve benim durumumda olanları yönetip, yönlendirenler de yargılanmalıdır" (N. Çiçek, 2009a, p. 32).

contrary to the previous statements of Cem Ersever and Arif Doğan, Akdağ and Aygan claimed that JİTEM was not abolished in 1990 but continued its activities until the late 1990s.

Another issue that I have highlighted in this chapter, as I did in Chapters 4 and 5, is the timing of the accounts as well as their content. The Ergenekon prosecution again appeared as an encouraging and accelerating factor in both narratives. While Abdülkadir Aygan made statements only after he took refuge in Sweden and felt safe there, Bedran Akdağ chose to speak in Turkey despite all the threats he received from military officials.

Apart from the timing of their accounts, why they talked and how they approached their past with JİTEM were two other important topics of this chapter. As this chapter has demonstrated, their verbal performances functioned in a *gray zone* where their subject position as JİTEM perpetrators in the past changed into a victim position. In this *zone*, we saw that they portrayed themselves as victims of past events rather than perpetrators.

To construct a *self* between these shifting subject positions, as their above accounts have displayed, they resorted to compulsion- and duty-related statements to prove that they had no real agency for deciding whether or not to take part in criminal acts. Accordingly, their agencies were mostly shaped by the state, exploiting their liminal standings. As both actors' accounts have shown, while this involvement was realized as a necessity of Akdağ's semi-official duty as a TVG, it was realized as a compulsion of circumstances for Aygan as a PKK defector. In other words, they were forced by the state to commit wrongdoings because they had no other choice, being stuck between the state and the PKK.

This chapter has also provided an opportunity to understand Akdağ's and Aygan's verbal strategies to make themselves plausible in explaining their shifts of position from perpetrator to victim. Among these strategies, three are repeated the most throughout their verbal performances: heart-searching, regret, and self-exoneration. With these strategies, they distinguished themselves from other JİTEM perpetrators who did not choose to speak up. By exposing the illegal existence and activities of JİTEM, they were actually seeking a new self-exonerative role in society as innocent victims rather than perpetrators.

As a result, regardless of which strategy and/or motivation pushed the emergence of these confessional narratives, it is evident that they made very serious claims in the JİTEM discussion. Thus, the question here is: What purpose did these accounts serve? Did these claims remain in books and newspapers, or did they feed into any legal process? I will seek answers to these questions in Chapter 7.

7. Between Structure and Agency: Turkey's JİTEM Trials

7.1. Introduction

Structure-centered Chapters 2 and 3, on the one hand, investigated the historical and legal legacies of the Turkish state in producing relationships of contractual violence with paramilitary groups. Agency-centered Chapters 4–6, on the other hand, examined the motivational processes and verbal performances of JİTEM-related actors in explaining their denial, admission, and enjoyment of the contractual violence. Between structure- and agency-focused debates, this chapter will analyze Turkey's JİTEM trials.

As emphasized many times in Chapters 3–6, both official state reports and critical personal accounts mostly underlined the urgency of an official investigation into JİTEM. This chapter will address how much this urgency has been met in the legal arena by closely scrutinizing five judicial cases. The legal system in Turkey classifies court files with docket numbers, but the five trials that I have chosen are widely known as the JİTEM trials among the public: the Main JİTEM and Musa Anter's Murder Trial (*Musa Anter ve JİTEM Ana Davası*), the Cizre JİTEM Trial (*Cizre JİTEM Davası*), the Ankara JİTEM Trial (*Ankara JİTEM Davası*), the Kızıltepe JİTEM Trial (*Kızıltepe JİTEM Davası*), and the Dargeçit JİTEM Trial (*Dargeçit JİTEM Davası*).

These trials are crucially important for three reasons: (1) For the first time, the officially denied JİTEM debate was brought to an official venue – courtrooms – as a trial subject. (2) These trials, also for the first time, provided a zone of confrontation where state actors, claimants, and defendants would come together and produce discourses on JİTEM. (3) These trials have also led to an expectation, especially among relatives of victims, that the state would solve the unsolved murders and try the perpetrators. However, the actual course of the cases demonstrates that all three of these points have been deficiently realized. Among the five, three cases – the Cizre JİTEM Trial, the Ankara JİTEM Trial, and the Kızıltepe JİTEM Trial – ended in acquittal, while the other two – the Main JİTEM and Musa Anter's Murder Trial and the Dargeçit JİTEM Trial – are still pending at the time of writing this thesis.

In all of these cases, courtrooms, rather than being venues for solutions, have stood out as an impunity-producing platform for past offenses attributed to the state. In order to examine how courtrooms have evolved from promising official sites for the JİTEM debate to places of acquittal in the official denial discourse of the state, in this chapter, I will first depict the transformation of the political setting that made the JİTEM trials possible. Then I will specifically focus on the acquittal strategies of the state that have prevented the prosecutions from functioning properly.

In doing so, I will utilize a wide range of legal texts and observation documents since it was not personally possible for me to attend courtrooms over a twenty-year period. Primary sources are case indictments to follow the investigation processes, as well as the archive of the website *failibelli.org* created by the Truth, Justice, and Memory Center (*Hakikat Adalet Hafıza Merkezi*) in order to "follow up on trials concerning massive human rights violations in the recent history of Turkey" (Faili Belli, 2018). I will employ various sources obtained from this website, including case timetables and monitoring reports based on lawyer observations. I will also draw on reports from the wide media coverage of the prosecution process. Based on these sources, the following sections will demonstrate how the state consolidates its denial policy using judicial processes.

7.2. The Theatrical Appearance of Proceedings: Show Trials

The German jurist and political scientist Otto Kirchheimer defines political trials around three distinctive points:

> A. The trial involving a common crime committed for political purposes and conducted with a view to the political benefits which might ultimately accrue from successful prosecution;
>
> B. The classic political trial: a regime's attempt to incriminate its foe's public behaviour with a view to evicting him from the political scene; and
>
> C. The derivative political trial, where the weapons of defamation, perjury, and contempt are manipulated in an effort to bring disrepute upon a political foe (Kirchheimer, 1961, p. 46).

Kirchheimer makes this distinction based on the perception of an internal enemy deemed harmful to political power. In his explanation, the sovereign regime's judicial power is set to eliminate all

threats to the ruler's sovereignty. However, such a setting inevitably requires close collaboration between the executive and judicial bodies of states, especially in regimes where the principle of separation of powers (among the executive, legislative, and judicial bodies) has been adopted. In this sense, I find the following words of another legal scholar, J.A. Grey Griffith, crucial:

> The political neutrality of the judiciary is a myth, one of those fictions our rulers delight in, because it confuses and obscures. The judiciary does not of course call its prejudices political or moral or social. It calls them the public interest (Griffith, 1977, p. 32).

As long as political power maintains its influence over judicial processes, the principle of the separation of powers remains only an illusion, trying to make people believe in institutional neutrality between the executive, legislative, and judicial bodies of the state.

Despite this neutrality myth, most of the time, political power does not even need an internal foe or political adversary sitting behind the dock to influence the judiciary. That is what I think, Kirchheimer overlooked when he distinguished among political trials. Based on the JİTEM trials, I add a fourth distinction: The political acquittal trial, where the proceeding turns into a show trial to acquit crimes allegedly committed by state actors, while claimants are given a limited voice during the theatrical performance in the courtrooms.

Legal anthropologist Jonas Bens approaches the courtroom "as a theatre and the courtroom proceeding as a performance" (Bens, 2018, p. 10). Undoubtedly, Bens is not the only one in history to come up with such an analogy. His proposal is more relevant to the physical appearance of courtrooms – e.g., the infrastructural establishment of rooms (material objects, visuals, and sounds) – and the linguistic utterances of participants (Bens, 2018, p. 1). Arendt, for example, drew a similar analogy between *courtroom* and *theater* fifty-five years before Bens's suggestion. In her analogy, Arendt depicted the auditorium specifically designed for the Eichmann Trial by the Israeli state as "a theatre in mind, complete with orchestra and gallery, with proscenium and stage, and with side doors for the actors' entrance" (Arendt, 1994, p. 4). Arendt, however, not only established the physical similarity between the auditorium of Eichmann's Trial and theater; she also questioned the intention of the Israeli state in the proceedings of the trial.

Arendt explicitly expressed in her commentary published in *The New Yorker* on 9 February 1963 that Israel had set up the Eichmann Trial as a show trial (Arendt, 1963). She argued that all of the processes of the trial had already been conceptualized as a theater play in the state's mind. According to her, as an ordinary enforcer of the Nazi regime, Eichmann was only a *scapegoat* in this play (Arendt, 1994, p. 247), because he was not prosecuted for only his own crimes; instead, the political power had the further intention of trying a larger mass and values (e.g., "the German people in general, or anti-Semitism in all its forms…") in the representation of Eichmann (Arendt, 1994, p. 286).

Bearing in mind the analysis of both Kirchheimer and Griffith regarding the nature of political trials and Arendt's historical sampling of the Eichmann Trial as a show trial, in this chapter, I will approach the JİTEM trials as political acquittal trials. To investigate the transformation of political will from a denial point to a trial point in the JİTEM debate, I will first delineate the historical background behind these trials.

7.3. JİTEM on Trial

While legal theory expects courtrooms to be places where truth is revealed, they mostly appear as areas in which political power easily affects, distorts, and even reproduces the truth. Bens explains courtroom functioning as a time machine reenacting the past "in a quasi-theatrical sense" (Bens, 2018, p. 12). However, the time machine metaphor itself evokes a situation in which facts are observed objectively. Far from serving objective truth/fact, all such facts are actually dependent on the reinterpretation of the performing bodies (claimants, defendants, witnesses, lawyers, judges) that occupy courtrooms, which often leads to a situation where facts are distorted rather than revealed as they are.

In an interview discussing the relationship between power and truth construction, Foucault states that "[e]ach society has its regime of truth, its general politics of truth: that is the types of discourse which it accepts and makes function as true" (Foucault & Rabinow, 1984, p. 73). Moving from Foucault's analysis, I argue that political trials occur where the actual facts are distorted or covered up by political power in favor of the regime of truth to be created.

World history is full of political trials confirming this assertion, and the literature contains a wide range of works dealing with the prosecution of crimes committed by state officials or collaborators (Alija Fernández & Martin-Ortega, 2017; Allo & Tesfaye, 2015; Chatterjee, 2017; Cornell & Roberts, 1990; Haberkorn, 2018; Macho, 2016; McSherry, 1992; Taiana et al., 2011). Such trials directly aim to reveal the atrocities of political power. However, how does a state confront its crimes in a judicial venue?

All of the sources underline one point in common: that states need a transition process from authoritarian regimes to liberal democracies to confront past crimes. This change can either occur as a result of war (civil or inter-state) or as a result of national and/or international pressure. The United Nations defines new regimes' desire to face past human rights abuses as *transitional justice* (United Nations, 2010).

Despite its celebration as a positive turn toward universal justice, there is still a possibility that transitional justice can result in show trials in both transition cases. In the first place, there may be more than one judicial body and multiple observers (e.g., the Nuremberg Trials or the International Criminal Tribunals for the former Yugoslavia and Rwanda). In this situation, there is always a risk that participants' conflicting interests can hinder the disclosure of real justice. As Arendt puts it, based on her observations on the Eichmann Trial, "the International Military Tribunals were international in name only … they were in fact the courts of the victors, and the authority of their judgment" (Arendt, 1994, p. 256).

In the second place, the driving force is the states' willpower to face past crimes. The most effective reflection of this will is the establishment of truth and reconciliation commissions (e.g., the National Commission on the Disappearance of Persons in Argentina and the South African Truth and Reconciliation Commission). These commissions' main task is to establish a record of truth and restore justice between perpetrators and victims. However, they have not been fully successful in achieving their objectives since former authoritarian regimes often only relinquish control over governmental posts after constituting impunity mechanisms for their past wrongdoings (McSherry, 1992, p. 7).

Studies on transitional justice emphasize that the *truth-seeking process* is of top priority compared to the *justice-seeking process*. Martti Koskenniemi, in his work examining the causative

relationship between impunity and show trials, argues that the only way to recreate a lively society out of a wounded one – a society of *perpetrators and victims* – is the exposure of truth with all its aspects (Koskenniemi, 2002, p. 4). The main claim here is that the role of trials established during the transition period should not be merely for punishment or retribution. Rather, they should coordinate the interrelation between truth, justice, reparation for victims, and non-repetition by guaranteeing the revelation of truth in the first place (Alija Fernández & Martin-Ortega, 2017, p. 532).

Nevertheless, Turkey's JİTEM trials show a contrary situation, where the parties have found themselves inside the *justice-seeking process*, missing out on the *truth-seeking* one. As will be revealed below, this situation has led to many contradictions as the legal process has progressed.

7.3.1. Contradictions of the Justice-Seeking Process

Susan Silbey and Austin Sarat emphasize the necessity of seeing the whole of society to understand the overall legal functioning of a state (Silbey & Sarat, 1987, p. 165). Turkey has undergone major political and social transformations in recent history, but none of them has led to a proper transition process for the state to face its past wrongdoings. Instead, impunity has always operated as a principle in state-associated crimes.

As I mentioned in Chapter 2, the Turkish state has a strong tradition dating back to Ottoman times of constructing relationships of impunity-based contractual violence between state actors and various participants. This continuity of impunity in state crimes is also clearly expressed by a slogan among nationalist circles: "It is the continuity that is essential in the state!" (*Devlette devamlılık esastır!*). The continuity of the state expressed in this slogan means that state practice continues without allowing any criticism while governments change.

Impunity literally means "exemption from punishment or freedom from the injurious consequences of an action" (Oxford Dictionaries, 2019). The scholar of law, Mahmoud Cherif Bassiouni, makes a distinction between realpolitik and accountability to explain why states choose impunity. Accordingly, while accountability aims to build true justice between victims and criminals, realpolitik pursues a country's urgent interests without any ideological or moral considerations (Bassiouni, 2000, p. 409). The JİTEM trials themselves provide an excellent example to show how

the transformation of realpolitik in Turkey's recent history has affected the course of justice. The categorical approach of Tilly is very useful to trace the dynamics of this change between episodes.

Tilly categorizes social scientists who explain political and historical processes according to five viewpoints: skepticism, law arguments, propensity approaches, system models, and mechanism- and process-based accounts. Skeptics avoid making generalizations while explaining momentous processes. Even if they tend to describe and interpret significant processes, they are cautious about making strong claims (Tilly, 2001, p. 22). Investigators into legal proceedings or law arguments generate empirical generalizations to demonstrate casual uniformities between different dependent variables under necessary conditions (Tilly, 2001, p. 23). Scholars of propensity approaches focus on the motivations of actors to explain changes and transformations in systems. Those actors can be individuals, as well as organizations or other collective agents (Tilly, 2001, p. 23). System model analysts explain the interaction between independent backgrounds (e.g., specific place, event, structure, process), which construct the elements of a larger setting (Tilly, 2001, p. 23). Lastly, scholars of mechanism- and process-based accounts explain "salient features of episodes, or significant differences among them, by identifying within those episodes robust mechanisms of relatively general scope" (Tilly, 2001, p. 24). Researchers using this approach look at episodes at the most foundational level to describe the transformation of processes.

Considering these analytical tools outlined by Tilly, I conclude that the most appropriate approaches to examining the JİTEM investigation process are the propensity and the mechanism- and process-based ones. Thus, in the following section, I undertake an analysis of the period from the creation of JİTEM in 1987 to the present time. In doing so, I will focus on the salient features of the episodes that I pick and the individual and institutional efforts and motivations of some agents to make the JİTEM trials possible.

7.3.2. JİTEM Investigation between Episodes

As mentioned earlier in this thesis, the name "JİTEM" appeared for the first time in the Parliamentary Report on Unsolved Political Murders in 1995, but it took the judicial body of the state four more years to launch an investigation into the organization. However, even though the official investigation started in 1999, it would take ten years for the investigation process to evolve to the courtroom process in 2009.

I argue that the main reason behind this lengthy process was the contradictions between the legislative, judicial, and executive branches of the state and the long-standing influence of the army over them. This argument does not underestimate the legal activism of lawyers and the efforts of human rights organizations and victims' relatives, whose contributions to the progress of the JİTEM investigations and litigation processes cannot be denied. However, in order to explain the process that turned the JİTEM investigation into political trials, my aim in this part is to examine the unstable political environment that has made the JİTEM trials possible. The following sections demonstrate this instability through four episodes between 1987 and 1995, 1995 and 2009, 2009 and 2015, and 2016 and the present day.

Episode I: Reign of Fear (1987–1995)

The first episode includes the years from the creation of JİTEM in 1987 to the first time it was mentioned in an official document in 1995. Four overall points characterize this eight-year episode best.

First, after OHAL rule was declared in the Southeast in 1987, JİTEM was created within the JAK in Diyarbakır in the same year. Second, this eight-year period was also the most intense period of clashes between the TSK and the PKK (140journos, 2017). This violence led to the third point, i.e., the most intense period of civilian repression. Fourth and finally, in connection with this repression, this was also the period when JİTEM's extra-judicial operations were the most intense. As I have already indicated in Chapter 3 through Tables 3.2 and 3.3, the numbers of disappeared people and unsolved murders reached their peak in 1993 and 1994.

The OHAL decrees issued between 1987 and 1993 can explain this tragic rise. As previously discussed in Chapter 3, the Council of Ministers issued all seventeen decrees in this period, increasing the executive and military power of the state in northern Kurdistan under the guarantee of broad judicial immunity. That also allowed the JİTEM operations to happen with great ease thanks to the actual impunity.

Escalation of violence in those years inevitably brought about fear among people living in the region of both the treatment of the OHAL Governorate and that of JİTEM. They did not even dare

to ask about the fates of their detained relatives. Merely showing up at court could lead to detention by the official or unofficial forces associated with the state (Göral et al., 2013, p. 39).

Episode II: Breaking the Silence (1995–2009)

The second episode contains three significant developments in terms of Turkey's political life generally and the JİTEM investigation specifically. During this period, the state's legislative body discussed JİTEM within its official documents for the first time. It was also during this time that the era of coalition governments ended with the AKP coming to power as a single party in the general election on 3 November 2002. One of the promises of the conservative populist AKP's election campaign at the time was the democratization of the country, which also raised hopes in the Turkish public for the possibility of transitional justice regarding past state violence.

Three state reports – one for unsolved political murders and two for the Susurluk Scandal – were published in this episode, in 1995, 1997, and 1998, respectively. In these reports, both the parliamentary commissions and the Prime Ministry Inspection Board partly revealed the organizational structure as well as the actions of JİTEM. The parliamentary commissions even called on the judiciary for a further inquiry into the organization. As mentioned many times in previous chapters, the TSK's reply to the claims included in these state reports was *denial*.

However, in 1998, the prosecutor of the İdil district of Şırnak province, İlhan Cihaner, reopened a case file, which had not been consulted for ten years, about three people who were killed by unknown perpetrators in 1989 (Kılıç, 2009, p. 211). Cihaner reinitiated an investigation based on the confession letter of repentant İbrahim Babat sent to the Prime Ministry Susurluk Commission. As I mentioned in Chapter 3, this twelve-page letter included Babat's confessions and testimonies about JİTEM, also including detailed information about the murders in Cihaner's Şırnak case. Cihaner requested permission from the Ministry of Justice to interrogate Babat, but his request was rejected (Kılıç, 2009, p. 212). However, the prosecutor still drew up a summary of proceedings based on Babat's letter. Since the State Security Courts (DGMs: *Devlet Güvenlik Mahkemeleri*) dealt with gang crimes at that time, Cihaner sent the summary file to the Diyarbakır DGM Chief Public Prosecutor's Office to be converted into an indictment.

The name "JİTEM" was not mentioned in this first indictment. Nonetheless, Cihaner accused Colonel Arif Doğan, Major Ahmet Cem Ersever, Gendarmerie Officers Şaban Bayram and Sinan Yaşar, TVG Faysal Şanlı, and repentants Hacı Hasan (İbrahim Babat), Adil Timurtaş, Mehmet Zahir Karadeniz, Lokman Gündüz, and Recep Tiril for "forming an armed entity, and killing more than one person with malicious intent (*taammüden adam öldürme*)" (T.C. Diyarbakır Devlet Güvenlik Mahkemesi Cumhuriyet Başsavcılığı, 1999). Although Cihaner did not point directly to JİTEM by name in the first indictment, all of the accused would be explicitly accused of involvement with JİTEM over the following years.

At this point, Tilly's propensity approach helps explain the efforts of the parliamentary commissions and the prosecutor Cihaner to expose JİTEM. While the state's military wing persistently denied that JİTEM existed within the army, the main motivation behind the parliamentary commissions' and Cihaner's efforts was to reveal and eliminate such dark groups within the state. The shared opinion of the prosecutor and the parliamentary commissions was that the practices of such entities within the state harmed the state's image and served the propaganda of the PKK about the state's cruel treatment of Kurdish civilians. This understanding was evident in Cihaner's letter to the Ministry of Justice requesting permission to interrogate İbrahim Babat:

> Such acts [*those of JİTEM, Ed.*] particularly spur the propaganda of the separatist terror organization [*i.e., the PKK*] along the lines of "the legitimate security forces of the state are responsible for these [*illegal*] actions." The prosecution of real criminals will discredit this propaganda and reinforce trust in justice.[97]

Turkey witnessed some key developments between 1999 and 2002 that would change its political and social life. The country became a European Union candidate at the Helsinki Summit in 1999 (Directorate for EU Affairs, 2020). This candidacy meant a change in the state of affairs because the new policy led to an increased emphasis on preventing human rights violations as well as finding a democratic solution to the country's Kurdish problem. Following the Helsinki process in 1999, the

[97] "Özellikle bu tarz eylemlerin bölücü terör örgütü tarafından devletimizin meşru güvenlik güçlerince yapıldığı propagandasına neden olduğu ve gerçek suçlulların açığa çıkartılarak yargılanmalarının bu propagandaları boşa çıkartacağı ve adalete olan güveni pekiştireceği açıktır" (Kılıç, 2009, p. 212).

AKP government came to power in 2002 within the context of significant growth in the number of NGOs discussing human rights violations. In one of its first acts as a ruling party, the AKP terminated the OHAL rule in 2002 (BBC News Türkçe, 2016). The abolition of the OHAL rule also meant providing a favorable environment for the legal struggles of lawyers and victim's relatives over forced disappearances and unsolved murders.

Based on the democratization propaganda, the AKP again won the majority in the general election on 22 July 2007. The most important event of this period in the name of facing past wrongdoings was the start of the Ergenekon investigation in 2007. With this investigation, the democratization policy eventually evolved into a face-off between the AKP and the army; the latter had commanded a hegemonic position in Turkish politics until then (Sakallioğlu, 1997; Ünver, 2009). Over time, the Ergenekon investigation would stand out not only in terms of challenging army power but also in representing a driving force for the JİTEM investigation. As detailed in Chapters 4 and 6, the public quarrel among Arif Doğan, Veli Küçük, and Abdülkadir Aygan and also anonymous witness reports provided during the Ergenekon investigation about JİTEM catalyzed the transformation of the inactive JİTEM investigation into a litigation process in 2009.

Episode III: The Past on Trial (2009–2015)

As I underlined through the accounts of Abdülkadir Aygan in Chapter 6, confessions made during the Ergenekon investigation contributed to the discovery of bodies of people who had been missing for years. Given such concrete evidence, the state's judicial branch could not delay the litigation process further even though ten years had passed from the first JİTEM investigation in 1999 to the first hearing in 2009. Before discussing the state's strategies to delay the JİTEM trials for this ten-year period, the following text will describe the general characteristics of this episode.

Among the four episodes, the first two (1987–1995 and 1995–2009) represent a more stable process than the third one (2009–2015), which stands out with remarkable fluctuations in the country's political life. Since the analysis of all developments in this episode would exceed the limits of this thesis, I include only a few salient highlights that are important in terms of the JİTEM trials.

The Ergenekon investigation marked a new phase in the JİTEM trials as well as in the political history of the country in 2007. Apart from the consolidation of the AKP power, this period also saw Erdoğan becoming a paramount political ruler. Erdoğan's primary strategy to consolidate his power was to capture the judicial and military wings of the state. The Ergenekon trials partly enabled Erdoğan to achieve that goal with the military wing.

Erdoğan owed his main success for the materialization of this strategy to the 2010 referendum. By introducing comprehensive changes to the 1982 Constitution, the AKP's referendum victory increased the governmental control over the Constitutional Court, the High Council of Judges and Prosecutors, and the military courts (Haber7, 2010). Considering the process in terms of the JİTEM trials, one of the main reasons why the JİTEM investigation could not evolve into a litigation process was the difficulty of trying military personnel in civil courts. The referendum lifted this obstacle to the proceedings by ensuring that the accused military officials could be transferred to civilian courts (Ergil, 2010).

Erdoğan's AKP benefitted from the propaganda of democratization during the referendum campaign to successfully capture the state. Accordingly, the party turned both the referendum process and the Ergenekon trials into propaganda tools, promising society that the new rulers would address past state violence. Moreover, the AKP policy in this period also offered solution policies for disadvantaged and traumatized constituents of society. In this regard, the party started a democratic dialogue initiative with the Kurds, Roma, and Alevis in 2009 (Küçük & Özselçuk, 2015).

The most significant step for the Kurdish issue taken by the AKP during this period was the initiation of secret talks – also known as the Oslo Talks ("*Oslo Görüşmeleri*") – between the MİT and PKK in Oslo in 2009 (Hess, 2013). In the same year, the first hearing of the JİTEM trials was also held (Ahval, 2018). These secret negotiations between the state and the PKK eventually evolved into an official *Peace Process* ("*Barış Süreci*," or "*Çözüm Süreci*" = Solution Process) with these introductory words of Prime Minister Erdoğan in 2013:

> The Turkish Republic is one nation on this soil. That one nation includes everyone. Whoever pursues ethnic nationalism is of ill-intent. No one should come to us about

> being Turks or being Kurds. We have no separatism or divisions. Our nationalism is about patriotism and humanism (Özpek, 2017, p. 7).

These words clearly demonstrate a change in the official stance of the state toward the Kurdish issue. This gradual transformation of the official perspective, shaped by the 2010 Referendum, the Ergenekon investigation, and peace talks, also affected the JİTEM litigation process and accelerated its proceedings between 2009 and 2015. The process, which started with the first hearing of the JİTEM Main Trial in 2009, continued with the addition of the Cizre JİTEM Trial in 2009, the Ankara JİTEM Trial in 2014, the Kızıltepe JİTEM Trial in 2015, and the Dargeçit JİTEM Trial in 2015.

However, the official Peace Process lasted only two years, ending in 2015 due to Erdoğan's disappointment in the general election on 7 June 2015. The 2015 general election was of great importance for Erdoğan to impose the so-called *à la turca* presidential system (Özpek, 2017, p. 37). Erdoğan had already become the 12th President of the Republic of Turkey on 28 August 2014. However, he proposed transforming the presidency from a ceremonial office to an executive post with a presidential system. Thus, he was planning to both remain the chairman of the AKP and retain executive rights in the presidential office. For this transformation to happen, the AKP needed a majority of 400 deputies in Parliament to have enough power to amend the Constitution.

Prime Minister Erdoğan, as part of his election campaign, had put forward the Peace Process to negotiate with the Kurds to vote for the AKP in the election. Accordingly, the fate of the continuation of the Peace Process would depend on the AKP's success in the election. However, the Kurdish political elite did not accept such a bargaining policy, with the Peace Process tied to Erdogan's personal ambitions. Selahattin Demirtaş, co-chairman of the HDP, the main party representing the Kurdish political movement in Turkey, expressed this discontent as follows: "The issue of peace should be freed from being part of a political gain, or a bargaining chip for the AKP" (Özpek, 2017, p. 47). This discontent led to an opposition campaign against Erdogan's presidential project around Demirtaş's slogan-like words: "We won't let you become president!" (*Seni başkan yaptırmayacağız!*) (Hürriyet Daily News, 2015).

Indeed, this opposition campaign succeeded and prevented the AKP from reaching 400 deputies in the general election on 7 June 2015. The election results also meant the first major defeat in AKP

history. Accordingly, for the first time in the party's history, it lost the majority of votes (41% of votes, -9%) as a single party, whereas the HDP increased its votes (13% of votes, +7.5%) and surpassed the electoral threshold (10%) to become part of the TBMM (Traynor, 2015). This result also yielded the first hung parliament since the 1999 general election. However, because the parties entering the parliament could not achieve the formation of a coalition government, President Erdoğan called for a snap election on 1 November 2015.

The six-month period from June to November saw the escalation of violence in Turkey (for a chronology, see ISDP, 2016). The most traumatizing violent incidents were bomb attacks against opponent civilian groups in Şanlıurfa on 20 July 2015 and Ankara on 10 October 2015. In both cases, suspicion about the responsibility of the state has been long discussed (Gazete Duvar, 2019). Apart from deadly bomb attacks against civilians, the ceasefire between the PKK and the TSK also broke down in July, and President Erdogan announced on 11 August that "the Solution Process was put into a refrigerator" ("*Çözüm Süreci buzdolabına kaldırıldı"*) (CNN Türk, 2016a).

As mentioned earlier, the Peace Process's fate had been included in the AKP's election campaign for the general election of 7 June. The escalating violence between the TSK and the PKK in northern Kurdistan was also turned into an election campaign issue by the AKP. Speaking at an election rally in the Kurdish province of Van on 20 October 2015, prime minister Ahmet Davutoğlu said, "If the AKP is removed from power, terrorist gangs and the White Tauruses [*Beyaz Toroslar*] will roam around here" (Evrensel, 2015). Considering that the *Beyaz Toros* automobiles were identified with JİTEM operations during the 1990s, such an emphasis by the prime minister inevitably evoked a serious threat to the Kurdish people. Furthermore, as the prime minister of the state, with this speech, Davutoğlu not only revived the traumatic memory of the Kurdish people but also implicitly accepted the reality of JİTEM in northern Kurdistan.

Nevertheless, the instrumentalization of traumatic violence by Davutoğlu yielded positive results for the AKP in the general election on 1 November 2015. The election resulted in a clear victory for the AKP (49.5% of votes, +8.6%) and weakened the pro-Kurdish HDP (10.7% of votes, -2.4%) (Sabah, 2015). As a result, although the AKP could not reach the 400 seats required for the presidential system, it again won the majority to form the government alone.

This troubling process and the deterioration of the Peace Process in 2015 also affected the course of the JİTEM trials. The first reflection of this process was seen in the Cizre JİTEM Trial. Only four days after the 1 November election, the trial ended in acquittal for all defendants on 5 November 2015. This trial was the first one to be concluded among the various JİTEM cases (Faili Belli, 2015). As I highlighted at the beginning of this chapter, the investigation processes for four out of five JİTEM trials (excluding the Main JİTEM and Musa Anter's Murder Trial) were launched after the Ergenekon investigation. Among those four, the Cizre JİTEM Trial was the first suit filed on 11 September 2009, mainly based on anonymous witness testimonies in the Ergenekon investigation. It was also the first and only time that a military official, Cemal Temizöz, was tried under arrest in a JİTEM trial (Faili Belli, 2015). Significant reactions to the acquittal decision came from victims' relatives. The question that they asked then turned into a social media petition campaign: "If Cemal Temizöz is not Guilty, who killed the 21 individuals?" (Change.org, 2015).

The Cizre JİTEM Trial's conclusion of impunity just after the November election caused serious concern among victims' relatives about the fate of the other cases. Another tragic incident with symbolic value for the future of the ongoing trials occurred at the end of November in Diyarbakır. As the state's post-Peace Process military operations in northern Kurdistan were ongoing, the chairman of the Diyarbakır Bar, Tahir Elçi, was killed during a clash between police and the PKK's youth wing, the YDG-H (Patriotic Revolutionary Youth Movement), on 28 November 2015 (Bianet, 2015).

Tahir Elçi was a Kurdish lawyer and human rights activist. He was also an active participant and observer of the JİTEM trials and even a plaintiffs' lawyer in the Kızıltepe JİTEM Trial. Thus, the murder of Tahir Elçi as the head of the Diyarbakır Bar and as an important figure for the Kurdish society's judicial struggle led to a countrywide public outcry, especially among the Kurds. Despite discussion about whether this murder was a deliberate assassination, the murder trial has yet to come to an end. However, it is evident from the course of the remaining JİTEM trials that the murder of Tahir Elçi, with the perpetrator unknown, symbolized the end of the state's policy of *putting the past on trial*.

I will examine the last episode, from 2016 to 2021, as proof of this conclusion. In this new period, the general policy of the state has demonstrated a sharp transition from the policy of *trying the past* to the policy of *acquitting the past*.

Episode IV: Acquitting the Past (2016–2021)

This last episode started with Erdoğan's new discourse on the Kurdish issue. While he had found ethnic nationalism ill-intentioned in 2013, he now adopted a nationalist discourse himself in a speech on 28 January 2016:

> We will make life unbearable for those who are trying to establish a state within the state under the pretext of autonomy. At a time when we are saying one nation, one flag, one homeland, and one state, those who [talk of] division and break the country apart have malicious intentions (Kurdistan24, 2016).

This speech was also a reflection of Erdoğan's effort to achieve an alliance with nationalist circles as he had not been able to win enough seats in the parliament for his desired presidential transformation. Two historical processes were influential in the establishment of the nationalist front desired by Erdoğan against the opposition: Kurds' gains in northern Syria ("*Rojava*" or west Kurdistan) and the disruption of the collaboration between the AKP and the religious Gülen community.

According to the Turkish raison d'état, the history of the Syrian Kurds with the PKK has always posed a national threat on Turkey's Syrian border. Nevertheless, the ongoing Syrian War allowed the Kurds to declare *de facto* autonomy in northern Syria in 2012. The increasing aggression of the Islamic State of Iraq and the Levant (ISIL) in the region and the Kurdish Armed Forces People's Protection Units (YPG: *Yekîneyên Parastina Gel*) and Women's Protection Units (YPJ: *Yekîneyên Parastina Jin*)'s decisive victories against ISIL's attacks – especially during the siege of Kobane – made the Kurds an important regional actor (Lund, 2015). The achievements of Syrian Kurds in Rojava also created great joy and support among the Kurds living in Turkey. In the meantime, at every opportunity, Turkey has declared the YPG and YPJ as terrorist organizations, claiming the relations of these groups with the PKK. Thus, the state did not hesitate to carry out bloody operations in northern Kurdistan to suppress Kurds' increasing nationalist confidence in Turkey and their support for Syrian Kurds (Mandıracı, 2016). All in all, the termination of the Peace Process in 2015 had already created a convenient environment for these operations to consolidate Turkish nationalism in the country.

The deterioration of the collaboration between the AKP and the Gülen community served as a second factor bringing Erdoğan closer to the nationalist front. This deterioration evolved into Erdoğan's crackdown against the Gülen movement after the latter's unsuccessful coup attempt on 15 July 2016 (Washington Post, 2016). Shortly after the coup attempt, the AKP government declared OHAL rule for the second time in Republican history. Moreover, this new emergency rule meant the suspension of normative state principles not merely in a specific region, as observed in northern Kurdistan between 1987 and 2002, but throughout the whole country.

The countrywide OHAL rule strengthened Erdoğan's hand to eliminate the groups opposing his authority. The result was the dismissal of more than 150,000 civil servants and accusations against 77,000 people for suspected links to the Gülen community (Reuters, 2018). The state also used this clampdown as an opportunity to acquit itself of many accusations – so much so that accusations against the Terrorist Organization of Fethullah Gülen (FETÖ: *Fethullahçı Terör Örgütü*) started to appear in trial files where state officials were being tried. This also affected the course of the JİTEM trials, whereby defendants and defense attorneys after the 2016 coup attempt, for the first time, stressed that JİTEM and the JİTEM trials were all part of the FETÖ plot (Zıngıl et al., 2016, 2016; Yavan et al., 2017).

The AKP's OHAL rule lasted until 19 July 2018 (BBC, 2018). This two-year period witnessed many human rights violations due to the unjust arrests[98] and military operations[99] in northern

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[98] During this period, the widest opposition targeted by the government was academics and HDP members. Over 2,000 academics signed a petition stating "We will not be a party to this crime!" and criticizing military operations in northern Kurdistan that led to many human rights violations. As a result, most of the signatories have been dismissed from their jobs and faced trial processes (Barış İçin Akademisyenler, 2016). The HDP, one of the most important challengers against Erdoğan's presidential campaign, was also seriously affected by the oppression process. At the time of writing this thesis, at least 6,000 party members and activists, even including co-chairs Selahattin Demirtaş and Figen Yüksekdağ, and many elected MPs and mayors have been imprisoned with the accusation of terrorism and/or anti-state offenses (HDP-USA, 2018).

[99] According to data of the Crisis Group showing the causalities of the operations, "4,686 individuals have been killed since July 2015. Of those individuals, more than half are PKK militants (2,758), 22.4 per cent of whom are female. Around a quarter (1,215) consist of state Security Force members (including soldiers, police and village guards). There have been 490 civilians confirmed dead (the remaining 223 are "individuals of unknown affiliation",

Kurdistan. In this environment, Erdoğan achieved the necessary background for the implementation of the presidential system with the constitutional referendum of 2017, and the majority won by the AKP in the general election on 24 June 2018 thanks to an alliance (*Cumhur İttifakı*, People's Alliance) with the nationalist MHP (Middle East Eye, 2018).

The nationalist People's Alliance also symbolized a renouncement of the AKP's "democratization of the country" rhetoric, which the party had been defending since 2002. The most critical reflection of this twist in the state of affairs was observed during the Ergenekon and JİTEM trials. While all of these trials occupied a significant place for the prosecution of the Turkish deep state and paramilitary violence, 2019 was a year of these cases being closed with impunity, one by one.

The Ergenekon trial was the first to be concluded. That trial resulted in acquittal for all defendants on 1 July 2019 (Sputnik, 2019). As mentioned earlier, the Ergenekon investigation had an important effect on the acceleration of the JİTEM trials. Thus, such a conclusion of acquittal in the Ergenekon trial raised the suspicion that the JİTEM trials would face a similar fate. Indeed, this suspicion quickly became a reality. The Kızıltepe JİTEM Trial on 9 September 2019 and the Ankara JİTEM Trial on 13 December 2019 both resulted in impunity (Perpetrator Not-Unknown, 2019b, 2019a).

With the Cizre JİTEM Trial having already ended in 2015, three out of five JİTEM trials thus ended with impunity. At the time of writing this thesis, there are two ongoing cases: the Main JİTEM and Musa Anter's Murder Trial and the Dargeçit JİTEM Trial. Both of these trials are continuing with the efforts of the counsel for the prosecution. However, the fates of the three trials already concluded might lead one to predict that a similar process will occur for both ongoing cases.

Looking at the process from 1987 to 2021 thoroughly, I conclude that the state's halting strategy between the denial and tacit admission of JİTEM has gone one step further and turned into an

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a category Crisis Group uses for those killed in urban centres – almost all between December 2015 and June 2016 – about whom it is not known if they are civilians or PKK militants)" (Mandıracı, 2019).

acquittal strategy. The following section will deconstruct how this strategy has become functional during the proceedings.

7.4. Acquittal Strategies of the State against the JİTEM Trials

The transition from the *trying the past* episode to *acquitting the past* did not happen overnight. The above historical reading of the proceedings, in fact, indicates a clash between two opposite state wills, which was mainly caused by the inconsistency within the state and the transformation of the political realm with the AKP's rise to power as a single party in 2002.

On the one hand, the elected vein of the state (i.e., executive and legislative representatives) tends to reveal the clandestine relationships between and among different institutions of the state and criminal and/or paramilitary groups. Executive and legislative commission reports on unsolved political murders and the Susurluk Scandal exemplify this revealing effort of the state. This process was further accelerated with the Ergenekon investigation in 2007, and case files regarding the state's past wrongdoings developed into trial processes, especially in the company of the AKP's democratization discourse.

On the other hand, the bureaucratic vein of the state (the TSK, Gendarmerie, Turkish National Police, MİT) always had an intention to obstruct all paths to prevent facts from being revealed. These two seemingly opposite intentions of the state did not emerge interchangeably. On the contrary, both already coexisted from the very beginning of the JİTEM debate. However, the nationalist and violent transformation of the socio-political process since 2015 has contributed to the rise of the second will.

Indeed, from the very beginning, the second will accommodated a risk of transformation of the JİTEM trials into show trials. In this section, I will examine three main state strategies that have turned the JİTEM trials into political acquittal trials. A detailed analysis of the five JİTEM trials enables me to assert these strategies as follows: (1) procrastination, (2) splitting cases, and (3) anonymizing perpetrators. Although these strategies, in fact, have had a collective impact on all five litigation processes, in the following subsections, I will exemplify their most salient aspects in the context of specific JİTEM trials.

7.4.1. Strategy I: *Procrastination*

Beginning from the preparation of the first indictment of JİTEM-related actors and offenses in 1999, the *procrastination* strategy was employed to prevent or delay decisive action in the courtrooms. The state has benefitted from two main tactics to make this strategy functional: (1) disputes between civil and military courts about trying military defendants and (2) the transfer of trials to other provinces. Both tactics have exploited two aspects of the judicial process, namely preparation and litigation.

The preparation process entailed a ten-year period from the beginning of the first investigation in 1999 to the inauguration of the courtroom process in 2009. The main reason behind this lengthy process was the effort to select the proper court that should try the investigation's military defendants. In this regard, the state benefitted from two main obstacles to prolong the process.

The first obstacle was the jurisdiction of the courts. As shown in Table 7.1 below, the defendants in the JİTEM trial indictments were generally accused of establishing an illegal criminal organization. However, the ordinary courts were not responsible for gang crimes, which fell under the jurisdiction of DGMs until 2004 (Özbudun, 2007). As I discussed in Chapters 2 and 3, DGMs were courts with special status, tasked with trying organized crime and crimes that threatened the national security of the state. DGMs were also the only courts where military personnel who committed crimes along with civilians could be tried when the General Staff adjudicated the prosecution of its personnel in these courts. In 2004, these courts were abolished after a constitutional amendment. Thus, cases that previously fell under the jurisdiction of DGMs were transferred to the jurisdiction of courts of assize. However, the abolition of DGMs initiated a new dispute between civil and military courts to decide the right court for trying military defendants.

Table 7.1: The Accusations Included in the JİTEM Indictments

Trials	Accusations
Main JİTEM and Musa Anter's Murder Trial	"Premeditated murder, encouraging the public to revolt and kill each other" (T.C. Diyarbakır Cumhuriyet Başsavcılığı, 2013, p. 1).
Cizre JİTEM Trial	"Forming an entity to commit crimes, joining this entity by becoming a member, killing individuals, and instigating to kill" (T.C. Diyarbakır Cumhuriyet Başsavcılığı, 2009, p. 4).
Ankara JİTEM Trial	"The crime of killing individuals within the context of having formed an armed entity intending to commit crimes" (T.C. Ankara Cumhuriyet Başsavcılığı, 2013, p. 4).
Kızıltepe JİTEM Trial	"Having formed or managed an armed entity, being members of an armed entity and premeditated killing" (T.C. Mardin Cumhuriyet Başsavcılığı, 2014, pp. 3–5).
Dargeçit JİTEM Trial	"Premeditated murder" (T.C. Midyat Cumhuriyet Başsavcılığı, 2014, p. 3).

The dispute between civil and military courts actually stemmed from the hegemonic position of the military in Turkey. The army had provided an autonomous area for itself in the political, economic, and judicial fields, especially with the junta regimes of 1960, 1971, and 1980. In this context, to consolidate the army's judicial autonomy, the junta regime of the 1980 coup put an article into the 1982 Constitution that would prevent military officials from being tried in civilian courts:

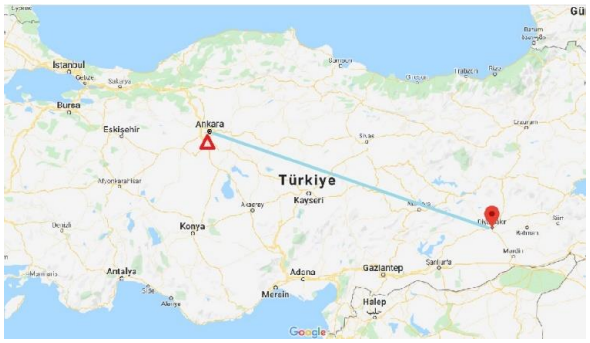
> ARTICLE 145: Military justice shall be exercised by military courts and military disciplinary courts. These courts shall have jurisdiction to try military personnel for military offences, for offences committed by them against other military personnel or in military places, or for offences connected with military service and duties (Constitution of the Republic of Turkey, 1982).

Tezcür argues that the culture of impunity is easily established and sustained in the judiciary if a state's legislative and executive bodies are weak against military autonomy (Tezcür, 2009, p. 306). The above article is a pure example of the consolidation of impunity culture for military crimes in Turkey.

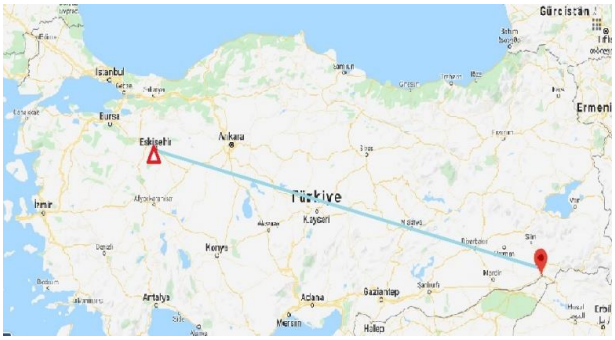
Article 145 delayed the start of the litigation process for the JİTEM investigation for a ten-year period because special permission from the General Staff was required for the trial of military personnel in civil courts. Thus, investigation files were shifted between different civil and military courts for a long time because the General Staff did not provide this permission because it did not accept the existence of JİTEM within the army.

The reflection of this military immunity from the civil judiciary can be clearly observed in the process following Cihaner's initial JİTEM indictment. Accordingly, since the four addressees of the accusation in this indictment were military personnel, special permission for their prosecution in civil courts was required from the General Staff. However, the General Staff refused the request as it pursued a denial strategy of the relationship between military staff and JİTEM. As a result, the case file shifted between the 3rd State Security Court of Diyarbakır, the 3rd Assize Court of Diyarbakır, the Military Court of the 7th Corps, the 6th Special Authorized Assize Court of Diyarbakır, and the Court of Jurisdictional Disputes for a long time (S. Işık, n.d., p. 2). While the commencement of the trial had been constantly delayed until 2008 because of the disputes between courts, the process accelerated with the claims that appeared in the Ergenekon trials and finally turned into legal action in 2009.

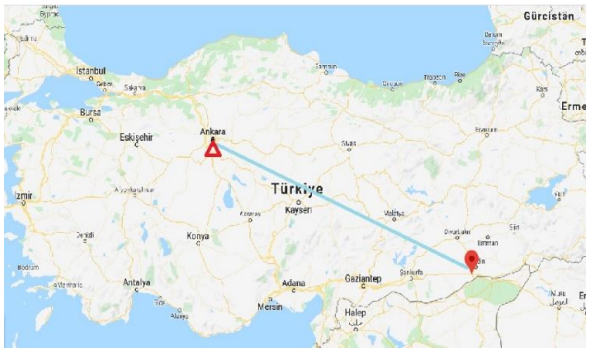
The second tactic of the procrastination strategy was the transfer of trials to different provinces. As visualized in the maps below, four JİTEM cases, excluding the Ankara JİTEM Trial, were moved to different provinces on security grounds.



Map 7.1: Main JİTEM and Musa Anter's Murder Trial
(from Diyarbakır to Ankara, 884 km)



Map 7.2: Cizre JİTEM Trial
(from Cizre to Eskişehir, 1,328 km)



Map 7.3: Kızıltepe JİTEM Trial
(from Kızıltepe to Ankara, 1,004 km)

Map 7.4: Dargeçit JİTEM Trial
(from Dargeçit to Adıyaman, 403 km)

According to Article 12 of the Law of Criminal Procedure (*Ceza Muhakemesi Kanunu*), the authority to try a suit belongs to the courts within the province where the crime was committed (Ceza Muhakemesi Kanunu, 2004). The same law also regulates the conditions for case transfers in Article 19. Accordingly, there are two requirements for a transfer decision to be made. First, the Court of Higher Jurisdiction can rule a transfer if the authorized judge or court is unable to perform its duties for legal or actual reasons. Second, the Minister of Justice can ask the Supreme Court for a transfer if the prosecution poses a danger to public security at the place of the authorized court (Ceza Muhakemesi Kanunu, 2004). The second option has become a general policy in Turkey for trials where state officials are prosecuted. It is evident that transferred cases mostly resulted in acquittals or light punishments (Saymaz, 2013).

Transfers cause economic and social consequences for both the parties of claimants and the counsel for the prosecution. Moving the cases to courts hundreds of miles away puts the aggrieved party in a disadvantaged position against the defendants. First of all, transfers create economic problems for

claimants to follow hearings regularly because they must travel from one province to another on each hearing date. It also makes it difficult for the counsel for the prosecution to collect evidence against defendants and call in local witnesses to courtrooms to hear their testimonies (Karakaş, 2013).

Nonetheless, the Turkish judiciary made a new regulation in 2011 intended to ease these negative aspects of trial transfers. Accordingly, all parties (defendants, claimants, witnesses, lawyers) were allowed to join hearings through an audio-visual communication system (SEGBİS: *Ses ve Görüntülü Bilişim Sistemi*) (Hürriyet, 2019). The reflection of this regulation on the JİTEM trials has been the transfer of trials to virtual space in addition to the physical transfers to other provinces. Rather than serving as a convenience, however, SEGBİS has led to another problem damaging one of the basic principles of legal theory: the principle of physical confrontation between claimants, defendants, and witnesses (Koca et al., 2017). Evaporation of this fundamental principle via the SEGBİS system was explicitly protested by the plaintiff's attorneys for the Kızıltepe JİTEM Trial on 17 February 2017:

> There is a case that would reveal the crimes committed by the state during the 1990s. The nature of this trial is that the victims were subject to illegal practices of the state. While this case should be held in Mardin, it was transferred to Ankara without any legal basis. Will the desired result be achieved in a case where everyone participates via SEGBİS? The dead bodies of the victims of this trial were found in the wells. How are the bodies of people detained by the gendarmerie forces during village evacuations found in wells? Nobody asked this question in this case (Ürper et al., 2017).

This declaration reveals two facts about the JİTEM trials. First, trial transfers have made it difficult for plaintiff parties to follow the trials. Most of them are unable to attend the hearings regularly either due to the extraordinary security conditions (e.g., state operations, curfews) in northern Kurdistan that deteriorate from time to time or due to economic situations. Furthermore, the introduction of the SEGBİS option in participation in the courtrooms damaged the perception of the reality of the trials. Thus, the JİTEM proceedings have turned into virtual trials, where claimant and defendant parties do not usually see each other.

7.4.2. Strategy II: *Splitting Cases*

The second strategy has the purpose of concealing the real agency behind offenses by the tactic of *splitting cases*. Although the prosecution has established links between the various JİTEM cases, the courts have stubbornly prevented a merging of the cases into a main JİTEM file. Instead, the judiciary tends to localize the cases within certain provinces and districts to conceal the relations between them.

The purpose of the state here is to localize and individualize the cases and reduce them to simple gang crime cases. Even though many witness testimonies stated JİTEM as the responsible unit for the crimes during the investigation and litigation processes, the judiciary avoided conducting a comprehensive investigation into the organization. Instead, it handled the JİTEM cases by reducing them to certain people and provinces as parts of gang crimes. However, the following table demonstrates how frequently the name "JİTEM" was mentioned in trial indictments.

Table 7.2: Emphasis of JİTEM within the Indictments

Indictments	**Total Pages**	**Use of the Name "JİTEM"**
Indictment for the Cizre JİTEM Trial, 2009	85	13
Indictment for the Main JİTEM and Musa Anter's Murder Trial, 2013	27	98
Indictment for the Ankara JİTEM Trial, 2013	188	12
Indictment for the Kızıltepe JİTEM Trial, 2014	121	182
Indictment for the Dargeçit JİTEM Trial, 2014	115	11

As mentioned earlier, the period between 2009 and 2015 showed an acceleration in the state's policy of *trying the past*. Preparation of new indictments about JİTEM-related crimes and the start

of the courtroom process coincided with this process. The data above clearly show that JİTEM has become a blatantly discussed issue in the judiciary, too, in addition to some testimonies and allegations included in media coverage. Based on the prevalent JİTEM emphasis in the case files, the demand for merging cases was frequently expressed by the joint attorneys. However, the only merger decision made so far was for the trials of Musa Anter's murder and the main JİTEM case.

Repentant Abdülkadir Aygan's confessions during the Ergenekon process in 2011 changed the course of both cases. Aygan named Hamit Yıldırım as being responsible for the murder of Kurdish intellectual Musa Anter. Based on this claim, Yıldırım was arrested on 2 July 2012, which prevented the Musa Anter's Murder Trial from being placed under the statute of limitations, and the case was refiled by the Diyarbakır 7th Assize Court in 2013. Plaintiff attorneys of the Main JİTEM Trial then requested the joinder of the two cases, claiming that there was a clear link between them (Faili Belli, 2013a).

However, the trial was transferred to the Ankara 6th Assize Court on the grounds of security, and the Court rejected the request for the merger of two cases with the explanation that "there is no legal and actual link between the two cases" (Cumhuriyet, 2015). Nonetheless, the Court in Diyarbakır announced that the Main JİTEM Trial was terminated, reasoning that there was no further issue to be investigated in the case, and re-sent the file to the Court in Ankara to be merged. Because of the dispute between these two courts, the case was transferred to the Supreme Court of Appeal for a final decision. The decision was issued on 29 January 2016 that the legal action concerning the two cases was to be consolidated (Faili Belli, 2016). Therefore, it took three years for the merger to be realized.

Another merger request was made for the Kızıltepe JİTEM and Dargeçit JİTEM trials by joint attorneys (Gazete Karınca, 2017). Kızıltepe and Dargeçit are districts of Mardin province. While the JİTEM emphasis in both case files and the geographical proximity of the districts required a merger of the two files and expansion of the investigation for the two districts, the Kızıltepe JİTEM Trial ended in acquittal for all defendants on 9 September 2019 without any merger decision having been obtained. The impunity result of the Kızıltepe JİTEM Trial, despite the lawyers' request for a merger, is a clear indication that the judiciary individualized and localized the crimes independently of JİTEM.

The state's failure to consolidate the cases also incited discontent among the victims' families. On 31 December 2014, in a report covered in the local *Dargeçit Newspaper*, one of the relatives of the victims of the Dargeçit JİTEM Trial, Mehmet Coşkun, criticized the efforts of the state to prevent the actual agency behind the atrocities from being uncovered with a single case file. Underlining that the murders committed in Kızıltepe and Dargeçit were interrelated, Coşkun added:

> In the case of a real investigation, it would reveal that both the local branches of JİTEM and those who gave orders for the extra-judicial killings have joint responsibility for these murders. The Turkish state has never protected us [*he refers here to Kurds, Ed.*] but always denied. Even today, it did not initiate the proceedings by its own will. The indictment was prepared as a result of the struggle of victims' families, whose relatives have been lost in Kurdistan for 20 years (Dargeçit Haber Gazetesi, 2014).

Coşkun's statement clearly shows the distrust of a victim's relative toward the Turkish state. This is, in fact, a two-dimensional distrust. The first dimension is mistrust against the Turkish judiciary. Despite the clear evidence, the judiciary's avoidance of conducting a thorough investigation into JİTEM-related crimes triggers suspicion of JİTEM trials. The second dimension entails general distrust towards the Turkish state. With his statement, Coşkun actually draws attention to the way in which the disadvantaged status of the Kurdish people in Turkey has been reproduced in the JİTEM trials. The emphasis in Coşkun's words – especially regarding the denial of Kurds by the state – inevitably refers to the historical background that I examined in Chapters 2 and 3, in which the Kurdish region and people were significantly exposed to exceptional dual state implementations (through the establishments of, e.g., Independence Tribunals, Inspectorates-General, and the state of Emergency Governorate) in the prerogative functioning of the state. According to Coşkun, the judicial realm through the JİTEM trials has merely provided another site for the state to continue its denial and impunity policy toward the atrocities committed against the Kurds.

7.4.3. Strategy III: *Anonymizing Perpetrators*

While the *splitting cases* strategy is intended to disguise JİTEM's overall responsibility for past abuses, this third strategy is intended to complicate access to some key civilian defendants of the trials. Two main tactics employed in this strategy are (1) preventing the disclosure of JİTEM's ex-

PKK militant employees' real identities and (2) preventing the inclusion of former state authorities in the trials despite severe allegations made against them during litigation processes.

The first tactic has been made functional by the Repentance Laws. As I discussed in Chapter 3, PKK defectors involved in JİTEM benefited from the "witness protection program" under these laws, which provided some protective measures for them: the change of their national identity cards and even their physical appearance if necessary. Furthermore, the practicality of the Repentance Laws was reinforced by a confidentiality agreement between the parties. Accordingly, the state shall not share beneficiaries' real identities and residence addresses with third parties. The actual question here is: What if these people committed human rights violations? Will this law still protect them? This is a question frequently raised by the claimant parties during the JİTEM trials.

The Main JİTEM Trial provides a good example of the functionality of this tactic. The court was unable to conduct an effective investigation into six civilian defendants (Kemal Emlük, Saniye Emlük, Aziz Turan, Hüseyin Tilki, and Ali Ozansoy) as their actual identity information and addresses could not be determined. When the court sent a written inquiry to the Ministry of Internal Affairs to request the required information, the Ministry stated that all these individuals had benefited from repentance laws. In its reply in 2007, the Ministry justified its decision as follows: "The Ministry of Internal Affairs and other institutions and organizations are obliged to obey all necessary rules of confidentiality in the implementation of the protective measures to be taken" (T.C. İçişleri Bakanlığı Emniyet Genel Müdürlüğü, 2007).

The Ministry's response was an apparent obstacle for the progression of the Main JİTEM Trial, where severe human rights violations against civilians were under investigation. It also shows how contractual violence through repentance laws functions for the beneficiaries in the JİTEM trials. Accordingly, the basic information necessary to take the suspect repentants to court (leaving aside their trials) was withheld by the state, even if those individuals were indicted for human rights offenses.

The second tactic of the state's *anonymizing perpetrators* strategy is state officials' exemption from the judicial process. The functioning of this tactic may be best observed in the Ankara JİTEM Trial.

The Ankara JİTEM Trial came to the fore by unveiling the close relationship among JİTEM, the PÖH, and the MİT. This relationship was highlighted in many parts of the indictment with witness testimonies. For example, the former Head of the Special Intelligence Department of the National Intelligence Service, Mehmet Eymür, testified that he had learned that several murders were committed with the mutual involvement of individuals from JİTEM in the military and Special Action Departments in both the Turkish National Police and the MİT (T.C. Ankara Cumhuriyet Başsavcılığı, 2013, pp. 31–32). Another witness, Erhan Özen, who claimed to be a former JİTEM member, took a step further and stated: "JİTEM and the police collaborated in some extra-judicial killings, and the government of the time [*Çiller's government*] knew about the murders" (T.C. Ankara Cumhuriyet Başsavcılığı, 2013, p. 43).

Because of the clandestine relationships among different state institutions (the military, the Turkish National Police, and the National Intelligence Service) and Çiller's government (1993–1996), the Ankara JİTEM Trial was referred to as the state's JİTEM case. Most of the victims of this case were Kurdish businessmen and bureaucrats, who were murdered between 1993 and 1996 after the infamous press release of Prime Minister Tansu Çiller on 4 November 1993. As I discussed in Chapter 3, Çiller threatened the Kurdish businessmen who paid tribute to the PKK in that press release (Kılıç, 2009, p. 165).

In 2014, nineteen people, among whom were former police chiefs and special action team members, were sued in the Ankara 1st Assize Court for having killed eighteen people extra-judicially and arbitrarily in Ankara and its vicinity between 1993 and 1996 (T.C. Ankara Cumhuriyet Başsavcılığı, 2013, pp. 1–22). Among the defendants, three names were of particular importance: (1) Mehmet Ağar – then Head of the Turkish National Police; (2) İbrahim Şahin – then Head of the PÖH Department of Turkish National Police, and (3) Korkut Eken – then the responsible person for the training of PÖH teams.

Despite the strikingness of the above three defendants' positions of duty, the only arrested defendant of the first hearing on 16 May 2014 was Ayhan Çarkın – a former PÖH team officer (Faili Belli, 2014). As an officer who had participated in JİTEM activities in northern Kurdistan, Ayhan Çarkın had already made outstanding claims about the activities of JİTEM before being arrested. According to Çarkın's allegations, numerous actions said to have been done by the PKK in the Southeast were actually performed by JİTEM teams:

> "There is a village, it needs to be rescued," said our team commanders. We went there and tortured even dead bodies. We took people's fingernails out and forced them to eat excrement. We even killed the old woman who had offered us dinner at her house. The truths can only be revealed in the case of the establishment of a "Truth Research Commission." We were the murderers who worked under the motivations of the discourses of "*Vatan, Millet, Sakarya*" [*Homeland, Nation, Victory*].[100]

Çarkın's emphasis on the "Truth Research Commission" reveals his belief that the actual court was a show trial. I drew attention to a similar emphasis in Abdülkadir Aygan's account in Chapter 6 as well. Accordingly, both actors made it explicitly clear that they did not trust ordinary courts' justice and believed that the truth could only be revealed by an independent commission free of state influence.

As such, in the first hearing, Çarkın complained that he was the only person arrested in the case and demanded that state authorities should also be arrested:

> If I am not being released, I demand then-President Süleyman Demirel, Prime Minister Tansu Çiller, and Deputy Prime Minister Mesut Yılmaz and those who made the decisions in the MGK to be arrested. Also, Mehmet Ağar, Korkut Eken, and İbrahim Şahin should be arrested.[101]

Interestingly, despite Çarkın's allegations and demands, the court decided to release him on 11 July 2014 (Al Jazeera Turk, 2014). Thus, there were no defendants left arrested in the trial as the first

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[100] "'Orada bir köy var, kurtarılması gerek dediler.' Gittik, insanların ölüsüne, dirisine yapmadığımızı bırakmadık. Biz orada insanların tırnaklarını çektik, bok yedirdik; bize evinde yemek veren teyzeyi öldürdük. Gerçeklerin ancak "Hakikatleri Araştırma Komisyonu" kurulması durumunda açığa çıkacaktır. Bizler "Vatan millet, Sakarya" adı altında çatıştırılan katillerdik" (Karaca, 2011).

[101] "Madem ben tahliye edilmiyorsam başta dönemin Cumhurbaşkanı Süleyman Demirel, cinayetin azmettiricisi dönemin Başbakanı Tansu Çiller, Başbakan Yardımcısı Mesut Yılmaz ve MGK kararlarını alanların, burada sanık olmalarını ve tutuklanmalarını istiyorum. Ayrıca sıralı amir konumunda olan Ağar, Eken ve Şahin'in de tutuklanmaları gerekmektedir" (Faili Belli, 2014).

step toward turning the case into a show trial. The second step was relevant to the demands for the trial of the state officials.

None of the people above whom Çarkın named as the main responsible parties for the atrocities being prosecuted in the trial were arrested. While Mehmet Ağar, Korkut Eken, and İbrahim Şahin were tried as the unarrested defendants of the case, the court did not even take the testimony of the top-tier officials (Demirel, Çiller, Yılmaz) despite the request of the counsel for the prosecution for the interrogation of these officials. In its decision on 22 December 2017, the court completely rejected the interrogation requests for these individuals on the grounds that they might not have been aware of each perpetrator of the murders at the time of their duty (Faili Belli, 2017).

As a result, the case resulted in impunity on 13 December 2019 without the inclusion of high-profile state officials in the proceedings. This situation created another case of impunity among the JİTEM trials. Accordingly, the allegations about the main responsibility behind JİTEM-attributed crimes have not been adequately discussed due to the court's preventive decision denying high-ranking officials' responsibility for the activities of JİTEM.

7.5. Discussion

On the one hand, Chapters 2 and 3 discussed the Turkish state's historical and legal legacy on the road to the formation of JİTEM in 1987. This legacy established the maintenance of paramilitary relations with clandestine, violent groups. In the case of JİTEM, the disclosure of this relationship has been driven by the denial and admission debates among the state's executive, legislative, and military branches. On the other hand, Chapters 4–6 delved into the agency dimension of the debate, which oscillated between denial and admission poles, exploring the personal accounts of various agents at different levels of the state and JİTEM. Between structure-focused and agency-focused discussions, this chapter has analyzed the transfer of the JİTEM discussion to the judicial venue of the state.

What has been revealed in this chapter is that the judiciary has added a new dimension to the ongoing denial and acceptance debates between different branches of the state – that is, the acquittal of JİTEM. While the inauguration of five JİTEM court proceedings led to expectations of a fair trial

among victims' relatives, the fact that three of these cases concluded with impunity demonstrates that these cases actually turned into show trials.

The analysis of the significant political fluctuations in the recent history of Turkey throughout the four episodes (1987–1995: *Reign of fear*; 1995–2009: *Defying the silence*; 2009–2015: *The past on Trial*; 2016–2021: *Acquitting the past*) from 1987 to the present time has also confirmed that the JİTEM trials were, in fact, political trials. Accordingly, in the years when the AKP's discourse on the democratization of the country was influential, the state's policy of facing the past created hope regarding the realization of transitional justice in the country and accelerated the proceedings of the JİTEM trials. However, in the years when the same AKP gave up this discourse of democratization, these cases turned into trials where the state acquitted itself from the crimes attributed to it, namely political acquittal trials where claimant parties struggled against the acquittal strategies of the state to voice their claims and demands.

To understand how the acquittal process has functioned during these trials, I explored three main strategies of the state: *procrastination*, *splitting cases*, and *anonymizing perpetrators*. As I discussed through the five JİTEM trials in this chapter, the state has consistently used these strategies to extend the trial processes and conceal the real agency behind the accusations. Among them, first, the *procrastination* strategy took advantage of the dispute between military and civilian courts for the trial of military defendants, as well as the transfer of the cases to different provinces due to security reasons. While the first tactic prolonged the transformation of the judicial preparation process into the litigation process for a ten-year period between 1999 and 2009, the second tactic led to the alienation of claimants from cases due to the long distance between the provinces where the events took place and the provinces where the trials were held.

Second, the strategies of *splitting the cases* and *anonymizing the perpetrators* have demonstrated the state's efforts to conceal the responsibility of some civilian individuals – beneficiaries of the repentance laws and high-ranking state officials – in the JİTEM-attributed crimes by localizing and individualizing the trials for specific districts/provinces and defendants. Accordingly, although the counsels for the prosecution have exposed clear links between the various JİTEM trials, and between top-tier state officials and JİTEM, the courts have stubbornly prevented the cases from being merged into a main JİTEM trial and the key state officials from testifying before the courts.

It is possible to observe the success of these strategies from the JİTEM trials of Cizre, Ankara, and Kızıltepe. Despite all the evidence and allegations, these cases of extra-judicial killings resulted in impunity and the perpetrators remain unknown. These three trials' fate also raises doubts about the future of the other two ongoing cases (the Main JİTEM and Musa Anter's Murder Trial and the Dargeçit JİTEM Trial). This chapter has thus revealed a paradox in state behavior: Although the state's judiciary wing accepted the JİTEM discussion in the courtroom, the process has ended up producing show trials where the state has utilized courtrooms as an official venue to reproduce its denial and impunity strategies.

8. Conclusion

8.1. Anatomy of a Photo or *Deep State*

At the time of writing this thesis, on 16 October 2020, a photograph taken in the most popular touristic district of the southwestern Aegean part of Turkey, Bodrum, started to circulate on Twitter (see Image 8.1). What made the Bodrum photo interesting were the people in it: Alaattin Çakıcı, one of the leading figures of the Turkish mafia; Mehmet Ağar, former Head of the Turkish National Police (1993–1995), Minister of Justice (March–June 1996), and Minister of Internal Affairs (June–November 1996); Engin Alan, former Turkish general and Chief of the Special Forces of the Turkish Army (1996–2000); and Korkut Eken, former military officer and MİT agent.

Image 8.1: The Bodrum Photo

(From left to right: Alaattin Çakıcı, Mehmet Ağar, Engin Alan, Korkut Eken)

Üzeyir Çakmaktaş, who shared the photo via his Twitter account, is a close friend of Çakıcı. In his tweet, Çakmaktaş introduced the quartette in the photo as "[o]ur heroes, who faced all difficulties and hardships for the Turkish state to exist forever, and paid the heaviest prices for this cause, including the dungeon." Despite Çakmaktaş's emphasis on heroism, the photograph was mostly featured in Turkish media with phrases such as "the revival of the Susurluk spirit," "Deep state took a photo," "*deep* meeting," and "*deep* quartette" (Avşar, 2020; Dündar, 2020; Kronos, 2020; Tele1, 2020).

This thesis has investigated the historical and legal dynamics behind the maintenance of the paramilitary relationships between the state and specific groups, and this recent photo and the individuals posing in it say much that is relevant for the very core of this thesis, especially with regard to discussions of the deep state, contractual violence, and paramilitarization of the state.

There are two main reasons one would think of a relationship between this photo and the deep state. The first is relevant to the very essence of the "deep state" definition, referring, as it does, to the shadowy relationship among actors from the government, security apparatuses, and organized crime. Even if they are not currently in office, it is impossible to overlook the fact that what we see here are governmental and security actors together with a key mafia figure in the same photo. However, an even larger concern that made this photo ignite the deep state discussion is related to the quartette's controversial past and the very light penalties (in some cases even impunity) that they enjoyed for their alleged crimes in the state's service.

As a novel approach to this thorny topic, I have conceptualized *contractual violence* as an analytical tool to explain the impunity-based relationship between the state and its actors or, more broadly, society with its various components (e.g., ultra-nationalist civilians, gangs, ordinary people). This thesis has revealed how this contract operates through legal documents and processes to incite, accept, and normalize the illegitimate violence against those deemed foes of the state.

The following brief analysis of the biographies of the people posing in the Bodrum photo will show how this photo operates as a recent reproduction of contractual violence and, even worse, as an announcement of the normalization of paramilitary violence in state practice.

Mehmet Ağar is mostly discussed in the Turkish public in relation to his clandestine ties with ultra-nationalist hitmen. His ties to the mafia leader Abdullah Çatlı – one of the Susurluk crash victims – were revealed just after the Susurluk Scandal. The term of duty of Mehmet Ağar as the Head of the Turkish National Police between 1993 and 1995 were also the years in which unsolved murders and enforced disappearances reached a peak, as I demonstrated with Tables 3.2 and 3.3 in Chapter 3. Ağar was also the official who established the PÖH Department in 1993 and supported its semi-official paramilitary teams' collaboration with gendarmerie units in northern Kurdistan (Kronos, 2020). As mentioned in Chapter 7, a PÖH team member, Ayhan Çarkın, admitted that rather than fighting PKK militias, they were in fact conducting joint operations with JİTEM against civilians in the Southeast.

Korkut Eken served in the formation, equipping, and training of PÖH teams under Mehmet Ağar. Before his duty in the Turkish National Police, he had served in the ÖHD as a military officer until 1987 and the MİT as Deputy Head of the Smuggling Department between 1987 and 1988 (Kronos, 2020). Ağar and Eken were among the defendants in both the Susurluk Trial and the Ankara JİTEM Trial. Tried for gang and murder crimes, they were both given very light sentences (1 year of imprisonment for Ağar and 2.5 years of imprisonment for Eken) in the Susurluk Trial and were completely acquitted in the Ankara JİTEM Trial (Bianet, 2004; NTV, 2013; Kamer, 2019).

Another person associated with the ÖHD in this photograph is Engin Alan. After the semi-official Special Warfare Department (ÖHD) was transformed to the formal Special Forces Command (ÖKK) in 1992, Alan served as its chief between 1996 and 2000 (Kronos, 2020). While on trial for the Sledgehammer Coup Plan, he was elected in the 2011 general election to the TBMM as the İstanbul deputy of the nationalist MHP.

The last person in the photo, Alaattin Çakıcı, is best known for his mafia leadership and extreme nationalism. He was a member of the Grey Wolves in his youth and employed by the MİT in the 1980s. The MİT's former Head of the Special Intelligence Department, Mehmet Eymür, also admitted in a TV interview on 6 October 1998 that he was the first person who employed Çakıcı for the MİT's covert operations of the late 1980s. (Hürriyet, 1998). Accordingly, the MİT employed ultra-nationalist Çakıcı for mostly covert operations abroad against the PKK and the Armenian Secret Army for the Liberation of Armenia (ASALA) (MacDonald, 2020).

Çakıcı's activities with the MİT were also included in the Ergenekon and Ankara JİTEM Trial indictments. According to both indictments, Çakıcı was alleged to be directly involved in the murders of kidnapped Kurdish businessmen in 1994 (T.C. Ankara Cumhuriyet Başsavcılığı, 2013, p. 6). Since Çakıcı's involvement in these murders could not be proven, he was not punished for them, but he was sentenced to more than 50 years in prison for some other crimes, including gang crimes and the contracting of assassinations. Çakıcı, who had been in jail since 2004, was temporarily released on 15 April 2020 within the scope of a temporary COVID-19 amnesty law that notably excluded political prisoners while allowing the release of dozens of other mafia figures along with Çakıcı (Kucukgocmen, 2020; DW, 2020).

These biographies thus suggest the Bodrum photo to be an assertive manifestation of impunity-based relationships and practices in the state, which, in this thesis, I have traced through the legal origins of paramilitarism back to the late Ottoman era. Accordingly, Ağar and Eken's absolution from heavy sentencing in state service was not an exception in Turkish history but rather the result of a deep-rooted history that can be traced back to the absolution of Hamidiye Regiment crimes in Ottoman courts. While on trial, Alan's controversial career from the ÖHD to the nationalist MHP could be interpreted as a visible reflection of the most discussed close collaboration between the MHP and the ÖHD. Finally, Çakıcı and many other mafia figures' release by way of an amnesty law unequally applied for political prisoners could be comparable to the amnesty laws utilized for gang leaders and bandits by CUP authorities in 1914 and 1916.

Thus, the Bodrum photo, in fact, symbolizes the reproduction of contractual violence among the state, paramilitary groups, and criminal gangs in its latest historical reiteration or the recent paramilitarization of the state that developed after the defeat of the AKP in the general election on 7 June 2015. As discussed in Chapter 7, the post-2015 process largely stood out for the rise of a nationalist front comprising the AKP and MHP and the reescalation of violence in northern Kurdistan after the Peace Process's breakdown in 2015. Thus, it is possible to consider the Bodrum photo a complementary image of the photographed graffiti displaying paramilitary reflections of violence on the walls of destroyed buildings in Kurdish provinces in 2015 that this thesis began with. As I described in the introduction, the 2015 images were also very suggestive with their PÖH, JÖH, and Esedullah Team signatures and posing paramilitary members. Hence, the 2015 and 2020 photos, with self-confident individuals posing without any concern for legal

consequences, can be interpreted as the latest visual manifestations of the *paramilitarization of the state* with its all symbolic power for both re-traumatizing the social memory of the violent 1990s and intimidating opposition groups.

8.2. Exploring Turkish Paramilitarism: Contributions to the Literature

Upon the background of the historical and legal legacies of paramilitarism in Turkey, this thesis has focused specifically on JİTEM as an informal paramilitary organization to demonstrate the functioning of the contractual violence between the state and paramilitary groups. Since such a contract-based approach requires an in-depth analysis of both parties – the Turkish state and JİTEM paramilitaries in my case – the purpose of this thesis was not merely to show the historical and legal construction of this contract but also to provide information reflecting JİTEM-related actors' engagement with this contract. Therefore, in this thesis, I have offered both a macro-level structure analysis to explain the state's continuous historical and legal construction of contractual violence with paramilitary groups and a micro-level agency analysis to explain the utilization of this impunity-based contractual relationship by paramilitary actors.

As such, this thesis first situated JİTEM in a structure-centered macro-level position and explored the historical and legal continuities that set the ground for the formation of JİTEM in 1987. Secondly, it added an agency-centered micro-dimension to the broader structural scrutiny by focusing on JİTEM-related actors' motivations and justifications, articulating their benefits from the historically shaped contractual violence. Thus, apart from the contractual violence approach, the contribution of this thesis to the literature can be summarized with the following three main points straddling the structure-centered macro-level and agency-centered micro-level.

The first contribution is related to the methodological explanation of the transition period from the Ottoman Empire to the modern Turkish Republic. Many scholars working on the making of modern Turkey embrace a thesis of continuity between the late Ottoman period and the early Republican years (Mardin, 1962; Deringil, 1993; Kadioğlu, 1996; Karpat, 2000; Zürcher, 2010; Üngör, 2011). While the main purpose in all of these studies has been to emphasize social, ideological, and political continuities, this thesis has contributed a more in-depth understanding of continuity with respect to legal processes. It has done so by moving the analytical prism of the continuity thesis onto legal documents and practices, particularly regarding the paramilitary

history of Turkey. Based on this analysis, this thesis has argued that the continuities in the Turkish state's production of paramilitary relationships with specific groups amounts to a legacy that shapes and informs the phenomenon of contractual violence.

The second contribution places this thesis among the new research on paramilitarism in Turkey. So far, this issue has mostly been discussed in the literature in relation to the deep state concept (Ünver, 2009; Gingeras, 2010a, 2014; Söyler, 2015), with a focus on the historical formation of illegal networks among ruling elites, security apparatuses (army, national police, intelligence agencies), and criminal groups (gangs, mafia). The aim of this existing literature is generally to explain how these clandestine networks are shaped around the participating actors' ideological and economic interests and how they dominate state policy. Hence, paramilitarism tends, in this literature, to play a subordinate role in the functioning of the deep state. One of the main aims of this thesis was to rescue *paramilitarism* from its subordinate role within the deep state by offering it as an analytical phenomenon in itself traceable not only through the clandestine functioning of the deep state but also the legal functioning of the state. Therefore, this thesis treated *paramilitarism* and *the deep state* as two separate analytical tools feeding each other at their intersection points without making one dependent on the other.

Apart from the deep state discussion, paramilitarism has mostly been featured with regard to the Village Guard System in academic research on Turkey (Balta Paker & Akça, 2013; Gurcan, 2015; Özar et al., 2013). Among such works, only one study provides a general definition for paramilitarism as "the act of using civilians against oppositions in order to maintain hegemonic order" (Özar et al., 2013, p. 197) without referring to the diversity of relations that can be established between the state and paramilitary groups – i.e., state-supported or state-parallel in terms of functionality, and semi-official or informal in terms of legality. In this regard, all of these studies treat village guards basically as an auxiliary force useful in the state's COIN policy instead of highlighting paramilitarism as a separate analytical tool to explore the dynamics of the functional and/or legal relationship between the state and village guards.

However, the recent literature, of which this thesis can be considered a part, gives more sustained attention to the phenomenon of paramilitarism itself. Simultaneous with my own research, Ayhan Işık's recently defended thesis entitled "The Emergence, Transformation and Functions of Paramilitary Groups in Northern Kurdistan (Eastern Turkey) in the 1990s" treats

paramilitarism, from a historical perspective, as the primary object of analysis with all of its descriptive possibilities between semi-official and informal compositions of paramilitary relationships. Işık's historical perspective succeeds in removing the paramilitarism debate from the overarching sphere of the deep state, especially with its explanatory power demonstrating the semi-official and informal settings of paramilitary relationships between the Village Guard System, PÖH, Hizbullah, and JİTEM and the state. However, his historical legacy perspective does not leave much room to explore the legal legacy that makes paramilitary relations semi-official or informal. By highlighting the crucial aspect of legal practices and processes, this thesis thus represents a new frontier in the blossoming research on Turkish paramilitarism.

Finally, and above all else, this thesis has contributed to the existing literature with the first research-based study of JİTEM. Although JİTEM has been treated, often secondarily or in passing, as the perpetrator of many of the unsolved murders in the 1990s, two main problems have prevented in-depth scholarly research on the organization to date. The first is related to the informal status of the organization. Since the organization has no legal regulation (as do semi-official village guards) or its members are inaccessible (in contrast to semi-official village guards), it has been difficult for scholars to conduct academic research on the organization. That is why the most detailed research on JİTEM until now has consisted of journalistic studies. The second and most important reason for the lack of scholarly studies on this state-supported death squad is security concerns. As mentioned in Chapter 3, several journalists who tried to reveal state-sponsored violence themselves fell victim to the unsolved murders of the 1990s.

However, two crucial events in recent Turkish history, namely the Susurluk Scandal in 1996 and the Ergenekon investigation in 2007, ignited the JİTEM debate based on both official documents and personal accounts and enabled me to move the JİTEM debate from state reports and journalistic works to the academic field for the first time. Indeed, apart from the first journalistic revelations about the organization in 1992 (İkibin'e Doğru, 1992b), Cem Ersever's accounts in 1993 (Yalçın, 2003), and the Parliamentary Report on the Unsolved Political Murders in 1995 (Türkiye Büyük Millet Meclisi, 1995), all of the official and individual sources used in this thesis were produced following the Susurluk and Ergenekon investigations, when state officials' relationships with organized crime and paramilitary groups came under scrutiny.

Since JİTEM is not officially recognized yet, it is still not possible to verify important aspects of the practices and crimes of the organization. However, I certainly have enough compelling evidence and first-hand sources to present an analysis of how the state has dealt with the revelations, especially on the continuum between denial and admission. For this reason, my analysis in this thesis has mainly focused on the transformation of the JİTEM debate between denial and admission accounts. Therefore, this thesis has contributed to the literature as the first thorough scholarly research on JİTEM with the analysis of both its historical and legal structure and the personal agency underpinning it.

8.3. Locating JİTEM in Contractual Violence: A Brief Summary of the Thesis

Based on contractual violence as an analytical tool, this thesis has explored the state's continuous impunity-based relations with paramilitary groups focusing on the legal processes behind the formation of these relationships with violent groups on the structural side of the contract. This thesis has also scrutinized JİTEM-related actors' motivational processes and verbal performances to articulate their benefits from the impunity-based relationship with the state on the agency side of the contract.

In this regard, the introductory Chapter 1 laid out the general framework with which to untangle the historically and sociologically loaded concepts of *state* and *paramilitarism*. Like several other studies on paramilitarism, this thesis has also scrutinized the relationship between the state and paramilitarism through a critique of Weber's modern state definition – referring to the provision of a monopoly of *legitimate* violence within a given territory (Weber, 1946, p. 4). However, in distinction from other studies, I employed Benjamin's *law-making* and *law-preserving* understandings of violence to explain the dual functionality of state power in its relationship with the *legitimate* and *illegitimate* forms of violence. I adopted Benjamin's approach to my own research to argue that state-supported paramilitary relationships thrive in an ambiguous area between the law-making and law-preserving powers of the state. In this thesis, I have examined how modifications of state law or the total suspension, under the pretext of security reasons, of the rule *of* law in favor of rule *by* law have expanded the operation of the law-making power of the Turkish state in support of the paramilitary violence in this ambiguous area.

Based on this approach, this thesis has classified paramilitary groups as state-supported or state-parallel in terms of their functional relationship with the state and as semi-official or informal according to their legal nexus with the state. This thesis has shown that although the relationship between the Turkish state and paramilitary groups could variably be classified as semi-official or informal in terms of legality, the state has always developed a supportive functional relationship with such groups by taking an active role, whether overtly or covertly, in their formation or financial and/or material support.

Apart from the discussion on *state* and *paramilitarism*, another issue questioned in this thesis was why states resort to paramilitary violence. While the answer to this question varies from one state to another according to their own particular state formations, in Chapter 1, I highlighted the following five reasons as the most repeated answers in the literature: 1) state weakness, 2) national defense, 3) plausible deniability, 4) coup-proofing strategies, and 5) historical legacy.

The historical scrutiny in this thesis between the structure-centered and agency-centered chapters has indicated that four of these five reasons were more relevant to the Turkish case, namely *state weakness*, *national defense*, *plausible deniability,* and *historical legacy*. Accordingly, *state weakness* and *national defense* have more explanatory power to understand the formation of the first state-supported paramilitary groups (the Hamidiye Regiments, Fedai Branches, and Special Organization) in the period of Ottoman collapse. However, while the state maintains a historical legacy reproducing similar paramilitary formations (e.g., Hamidiye Regiments → Village Guard System → Temporary Village Guard System; Fedai Branches → Special Organization → Special Warfare Department) based on the national security discourse, plausible deniability has emerged as the most salient reason for resorting to paramilitary groups in the Republican era. This, I have argued, is because the state has been forced to become more accountable to the national and international community for its actions in the realm of human rights.

To elaborate on the Turkish state's functional supporting relationship with shadowy groups in semi-official and informal forms, structure-centered Chapters 2 and 3 examined the origins of paramilitary violence and its transformation through a century, spanning the 1890s to the 1990s, into a continuity of practice and eventually a *legacy*. In this respect, Chapter 2 presented a general overview of the paramilitary history of the state through four main periods until 1980. Examining this *longue durée* of paramilitarism from the monarchic Ottoman state to the modern

Republic of Turkey, this thesis has traced not only the historical formation of paramilitary groups but also the legal processes that laid the groundwork for the formation of these groups and the legal texts that made these groups semi-formal or informal in their relations with the state.

Accordingly, I identified the period between 1890 and 1913 as the formation years of paramilitarism from the first semi-official and informal links between the state and Hamidiye Regiments and Fedai Branches to the institutionalization of the deep state during the final years of the Ottoman state between 1914 and 1923. I argued that this institutionalization was a key component in transforming the CUP's informal Fedai Branches into the semi-formal Special Organization (*Teşkilat-ı Mahsusa*), including state/paramilitary relations, through policy, recruitment, and impunity-assuring regulations. The main purpose of the paramilitary groups formed in these two initial periods, as I have argued, was to strengthen the weakened Ottoman state against external and internal foes and save the empire from collapse.

Next, I identified the first Republican period between 1924 and 1952 as the era of *paramilitarization of the state*, in which numerous legal and administrative regulations contributed to the spread of paramilitary violence within the dynamics of law-making and law-preserving powers of the state. The newly established state's incapacity to ensure a monopoly of violence prompted it to create an auxiliary paramilitary force to eliminate the banditry undermining state authority in Anatolia. However, the revolts of Sheikh Said, Ağrı, and Dersim showed that an even greater threat against the new Turkism-centered state ideology came from the Kurds, which eventually led to a *dual state* approach.

Drawing on Ernst Frankel's work, which distinguishes between the normative state (where the rule *of* law is superior to the administrative and judicial bureaucracy) and the prerogative state (where the governmental system *exercises unlimited arbitrariness and violence unchecked by any legal guarantees*) (Fraenkel, 2017), I have employed the notion of *dual state* to explore the gray zone between law-making and law-preserving powers of the state and then examine this through a critical interpretation of key laws and reforms of the period. I conclude that the prerogative state approach itself contributed to the paramilitarization of the state and society by expanding the realms of impunity underpinning contractual violence over both the state and society.

I identified the last period under examination, 1952 to 1980, as the *consolidation of the deep state* in Turkey. Cold War anticommunism came to the fore as a determining factor in the domestic and foreign policy of this period while the Turkish NATO army established itself as a guardian of the state's founding values, bolstered by financial, political, and judicial autonomy and strengthened by the military coups of 1960, 1971, and 1980. To document the characteristics of this transformation, I focused particularly on the semi-official Special Warfare Department and the controversial *Kontrgerilla* wing with which the army autonomously organized anti-communist and anti-minority paramilitary violence beyond the oversight and control of elected ruling elites.

Chapter 3 showed how continuity in dynamics in the 1980s and the 1990s became consolidated as *legacy*. I did so by presenting an in-depth case study of the organizational structure and activities of JİTEM in northern Kurdistan. The initiation of PKK attacks in 1984 and the conclusion of the Cold War in 1991 impacted the Turkish state and prompted it to revise its perception of the internal enemy. The transregional and unconventional characteristics of PKK violence also encouraged Turkish policymakers to adopt irregular warfare tactics that fit the emerging global low-intensity conflict doctrine.

Hence, I argued in Chapter 3 that with these COIN strategies of the 1980s and 1990s, the state revived its deep-rooted paramilitary tradition and dual state structure. Accordingly, the Temporary Village Guard System was actually an updated version of the Hamidiye Regiments, repentance laws the modernized version of the amnesty laws of 1914 and 1916, the OHAL rule in northern Kurdistan a revival of the Inspectorates-General, and the Anti-Terror Law yet another example of centuries-old practices of instrumentalizing law between the law-making and law-preserving powers of the state.

Among these strategies, JİTEM directly benefitted from three – the Village Guard System, the repentance laws, and the OHAL rule. As Chapter 3 demonstrated, JİTEM was created illegally under the OHAL Governorate and recruited village guards and PKK defectors who benefitted from the repentance laws. Thus, this thesis concludes that the creation of JİTEM was not a coincidence but a result of arbitrary governmentality created in northern Kurdistan with the support of the impunity-producing emergency decrees. This thesis also concludes, based on the revelations of official reports, personal testimonies, and confessions, that JİTEM, which was

created under the pretext of the urgent struggle against terrorism, operated as a death squad against civilians and was involved in organized crime such as drugs and arms trafficking.

Agency-centered Chapters 4, 5, and 6 focused on the accounts of six individuals from different ranks and positions of the army and JİTEM, including both officials and civilian recruits. Based on my research, I have argued that insiders with direct knowledge of Kurdish matters were preferred in the formation of JİTEM to eliminate the state's infrastructural incapacity in northern Kurdistan in terms of both language and territorial knowledge to penetrate civil society.

Through an analysis of the six actors' verbal performances, this thesis contributes to existing research with unique personal perspectives that can help us understand the agency dimension of historically shaped contractual violence. Although piecemeal, contradictive in nature, and complicated by the dynamics of denial, tacit admission, and admission, these accounts reveal a lot about the functioning and activities of the organization. More importantly, however, I have shown in this thesis how these accounts are key to understanding the larger discursive formation of paramilitarism and contractual violence.

As such, this thesis concludes that *why* a story of the past is told is just as important as *who* tells the story, *what* they say, and *how*, *where,* and *when* they say it. The agency-centered chapters have shown that social and political positions and settings affected the discursive formation of personal accounts on JİTEM. Although the first confessional revelations on JİTEM started to circulate in the early 1990s through journalistic research (e.g., Major Ersever's confessions in 1993), the two sensational investigations of the Susurluk Scandal in 1996 and Ergenekon in 2007 have particularly contributed to the evolution of the debate on JİTEM from denial to a confessional admission point over time.

This thesis has followed the interactional transformation of the debate on JİTEM between denial and admission accounts through four main discursive formation lines: 1) denial of the link between military officials and JİTEM, but admission of the organization *outside* the gendarmerie; 2) admission of the link between military officials and JİTEM, but denial of extra-judicial violence against civilians; 3) admission of the link between military officials and JİTEM, but blaming the civilian recruits (i.e., repentants and village guards) for the extra-judicial

activities against civilians; 4) confessional admission of both the link between military officials and JİTEM and the death squad and organized crime activities of the organization.

This thesis also concludes that personal positions of actors (e.g., military official, ultra-nationalist hitman, village guard, repentant) have affected their discursive formations articulating their relationships with JİTEM and its activities. Accordingly, military officials who have admitted to serving in JİTEM tend to offer sterilized and innocent versions of JİTEM centered around national security justifications and patriotic motivations even if the JİTEM they created violated the rule *of* law in terms of both the organization's formation and activities. In addition, this thesis has demonstrated that *denials of knowledge and responsibility* regarding the extra-judicial activities of JİTEM act as an important rhetorical strategy in military actors' verbal performances. Accordingly, the JİTEM they created grew to be out of control due to the personal interests of civilian recruits.

When it comes to the verbal performances of the civilian recruits, on the one hand, this thesis has shown how ultra-nationalist ideology was influential in turning an ordinary man into a committed hitman of state violence. On the other hand, this thesis has also shown how the insecure position of a village guard and a repentant between the state and the PKK shaped their discursive formations (articulating their participation in JİTEM) in a gray zone shifting between perpetrator and victim roles. As this thesis has shown, in both cases, the insecure positions of the actors translated into a self-exoneration strategy in their verbal performances promoting themselves as victims of circumstances rather than perpetrators of state violence.

The structure-focused and agency-focused chapters of this thesis have discussed JİTEM predominantly through the documents produced by the executive and legislative branches of the state and the personal accounts of JİTEM-related military and civilian actors. To bring a new perspective to the JİTEM debate between the structure-centered and agency-centered discussions, Chapter 7 investigated the transfer of the JİTEM debate to the judiciary realm. However, what was revealed in this chapter was not the provision of a fair trial process as expected by victims' relatives, but rather the addition of a new dimension to the ongoing denial and acceptance debates between different branches of the state – that is, the acquittal of JİTEM.

Close analysis of the five JİTEM trials has shown how the JİTEM investigation has been affected by the transformation of political processes. Accordingly, the AKP's initial "democratization of the country" and "facing the past state violence" discourses initiated a *past on trial* process in the country between 2009 and 2015, also contributing to the acceleration of the JİTEM investigations and initiation of the court processes for five JİTEM cases. However, the party's complete abandonment of the democratization discourse due to its political reckonings in 2015 turned the *past on trial* process into *acquitting the past* for JİTEM trials after 2015. Indeed, three out of five JİTEM trials ended in impunity between 2015 and 2019 without offering a very hopeful expectation for the remaining two cases.

Chapter 7 has presented *procrastination*, *splitting cases*, and *anonymizing perpetrators* as three acquittal strategies of the state that prevented a fair trial in the JİTEM proceedings. Based on the analysis of these strategies, this thesis has concluded that the JİTEM trials were, in fact, political acquittal trials, where the proceedings turned into a show trial to acquit crimes allegedly committed by state actors, while claimants were given a limited voice during the theatrics of the courtrooms. As a result, what the trials revealed (for at least those three that have ended) was the reproduction of the impunity-based contractual violence in the judicial realm.

With these findings and conclusions, this thesis does not only present a new approach to paramilitarism research in Turkish studies with its legal-based scrutiny. It also accommodates new opportunities for future comparative global research by adding the JİTEM case to the literature with all its dimensions supported by a large assortment of sources translated into English for the first time.

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